Changes to COVID-19 safety requirements: Takeaways for Ontario employers & schools

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Ontario employers and educational institutions should be aware that the province has recently made significant changes to COVID-19 health and safety requirements.

This insight provides guidance on the three most important changes – the introduction of a mandatory screening requirement for workplaces, a mandatory masking requirement across the province and a new screening protocol for children in school and daycare.

Mandatory screening for workplaces

The province has amended the Stage 3 rules for businesses and organizations that remain open to implement mandatory screening for workplaces.

The rules now expressly require businesses and organizations to comply with "the advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health on screening individuals." The province has also published screening recommendations that it has identified as those of the Chief Medical Officer of Health. These two changes together make compliance with the new screening "recommendations" mandatory.

The recommendations are to implement a new screening protocol for all "workers" and "essential visitors" entering a work environment. The term "workers" is "intended to include students, contractors or volunteers that conduct business or related activities where applicable and appropriate."

Implementing a screening protocol to control access to Ontario workplaces is no longer optional. As the recommendations state, "Screening should occur before or when a worker enters the workplace at the beginning of their day or shift, or when an essential visitor arrives."

The screening protocol for workers has changed significantly.

The new screening protocol for workers requires that any individual who has had "close contact with a confirmed or probable case of COVID-19" to self-isolate. Prior to now, the provincial direction was stricter and required individuals to self-isolate based on close contact with *symptomatic* individuals.

Employers and educational institutions should carefully consider this change and decide whether to sustain or relax their protocol. The "probable case" concept deserves careful thought.

Note that the new recommendations say:

> At a minimum, the following questions should be used to screen individuals for COVID-19 before they are permitted entry into the workplace (business or organization). This tool may be adapted based on need and the specific setting.

Employers should view this as an invitation to employ stricter protocol than what the CMOH has recommended rather than protocol that is more permissive.

Employers should consider active screening

"Active screening" entails actively administering a questionnaire. "Passive screening" or "self screening" entails setting a requirement that individuals screen themselves prior to entry.

There are good reasons to doubt that the new workplace screening recommendations require active screening, though prudent employers who have adopted passive screening will now reconsider the use of active screening as a matter of due diligence.

Other government guidance on COVID-19 safety encourages employers to, "actively screen by having someone ask the screening questions, *where possible*." Employers may decide to adopt active screening if it is feasible for their particular operation, including based on an assessment of cost.

New provincial masking requirement

The province has required all open businesses and organizations to ensure that persons in the indoor areas of their premises and their vehicles wear "a mask or face covering in a manner that covers their mouth, nose and chin." There are exceptions, including:

- Children younger than two years of age;
- Persons with medical conditions that inhibit their ability to wear a mask or face covering and persons unable to put on or remove their mask or face covering without the assistance of another person;
- Persons attending schools, private schools and child care programs that are operating in accordance with Ministry of Education guidance; and
- Persons who perform work in an indoor area that is not accessible to members of the public and who are able to maintain a physical distance of at least two metres from every other person while in the indoor area.

Business and organizations may allow individuals to temporarily remove their mask or face covering while in the indoor area:

- To receive services that require the removal of their mask or face covering;
- To engage in an athletic or fitness activity;
- To consume food or drink; or
- As may be necessary for the purposes of health and safety.

The province has framed the exceptions as “entitlements” and stipulated that individuals do not need to present evidence that they qualify for any particular exception.

New screening protocol for children in school and daycare

The province has issued a new protocol for screening children in school and daycare.

The protocol is to be used with junior, intermediate and high school students and children in daycare. Unlike the protocol for workers, it contains two separate lists of symptoms - one that triggers immediate isolation and another that triggers a more moderate response. It also removes certain symptoms from the list altogether.

School boards, private schools and childcare centres should apply the new protocol for children in school and daycare in determining who may attend school and how to respond to a COVID-19 case. Notably, one trigger for self-isolation is close contact with someone who has been confirmed as having COVID-19 or who has received an alert from the COVID Alert application. This reliance on the COVID Alert application is novel.

Conclusion

Employers and educational institutions should take heed of the new screening and masking requirements and prepare updated policies in order to comply. The changes to the screening requirements, though complex, are important given controlling access to workplaces, schools and facilities is critical to managing COVID-19 risks. If you have questions about the new requirements or require assistance, please contact us.

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