

Engager vaccination policies, the Ontario Human Rights Code, performers and the Law

As you may be aware, ACTRA Toronto sits on the Section 21 Committee, which is an arm of the Ministry of Labour, Training and Development and the Public Health Office and we have been working to ensure a fair and equitable workplace environment.

The Ontario government has permitted employers to put vaccination policies in place, so long as the policy is not in contravention of the Human Rights Code or existing legislation. Currently, the HRC does not believe asking for proof of vaccination is such a contravention.

So long as the employer does not discriminate based on the protected grounds in the Human Rights Code, they are able to have a policy in place. ACTRA is not your employer.

Whenever a vaccination policy is implemented (whether by the producer/employer or by a location they are using), ACTRA requires that it be noted in the breakdown. Further, we continue to remind employers of our right to grieve under the collective agreement, should we believe any performer has lost work based on protected grounds when the performer has valid proof of a medical exemption and attempts to accommodate the performer have not been made. In the meantime, we also continue to ensure the maintenance of excellent standards of testing and masking on sets.

Related Links

- News release sent out by the Ontario Human Rights Commission that makes policies “generally permissible”: http://www.ohrc.on.ca/en/news_centre/ohrc-policy-statement-covid-19-vaccine-mandates-and-proof-vaccine-certificates
- Additional reading from the Ontario College of Physicians and Surgeons that the HRC is taking into consideration when determining if a policy violates the Code: <https://www.cpso.on.ca/Physicians/Your-Practice/Physician-Advisory-Services/COVID-19-FAQs-for-Physicians>

For clarity, a producer does have the right, as an employer, to request medical information from workers to ensure health and safety in the workplace so long as the request is limited, reasonable, and compliant with privacy legislation pertaining to the collection and storage of information.

It is understood that this is troubling for some members, but at present, an employer policy that requires a worker to disclose their vaccination status would meet the privacy threshold and if no medical exemption has been provided, would not be considered discriminatory.

As well, such a policy would likely not be found to violate the worker’s right to privacy because the worker’s decision to disclose their status remains voluntary and does not require the disclosure of related medical information. Every worker has an option and choice whether or not to disclose their status – it may lead to certain consequences, but the disclosure obligation is not mandatory. ACTRA does encourage members to get vaccinated, but ultimately the decision is yours to make.

Finally, even though privacy rights are engaged, section 2 of the Occupational Health and Safety Act provides that it takes precedence over other provincial legislation if the employer takes action under the Act to protect the health and safety of its workers.