

**Pandemic Response Division  
Ministry of Long-Term Care**

**Frequently Asked Questions:**

**Exempting Fully Immunized Employees from the Single Site Limitation in O. Reg. 146/20: Limiting Work to a Single Long-Term Care Home under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020***

**Q. What changes have been made to the rules regarding employees working at only one home?**

A. Recognizing the effectiveness of the COVID-19 vaccines and the provincial immunization program that prioritized long-term care home residents, staff and caregivers, an employee of a long-term care provider who is **fully immunized** against COVID-19 is now able to work in more than one LTC home, health care setting or retirement home (unless otherwise directed by a local medical officer of health) as per O. Reg. 146/20. The high aggregate uptake of COVID-19 vaccines in the long-term care sector has led to significant reductions in the number of new cases and outbreaks, creating an environment where this change can be made safely to support additional staff capacity in homes.

It is recommended that fully immunized employees work in a single, consistent cohort in each of the homes where they work. Long-term care homes should have policies regarding staff cohorting and maintain a current list of staff who are:

- Fully immunized (as described in O. Reg. 146/20); and
- Working in multiple homes.

Existing restrictions on work locations will continue to apply to partially vaccinated and unvaccinated long-term care home employees as per O. Reg. 146/20.

**Q. What is meant by “fully immunized”?**

A. Under O. Reg. 146/20, “fully immunized” means a person has received the total number of required doses of a COVID-19 vaccine approved by Health Canada and it has been at least 14 days since they received their final dose of the COVID-19 vaccine.

**Q. Who are included as “employees” for the purposes of this change?**

A. O.Reg. 146/20 applies only with respect to long-term care home employees who perform work in a long-term care home operated or maintained by the long-term care provider, as defined under the *Long-Term Care Homes Act, 2007*. As such, this change is only relevant to an employee of a long-term care home licensee.

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**Q. What does “unless otherwise directed by a medical officer of health” mean?**

A. Per O. Reg. 146/20, local medical officers of health have the discretion to direct that employees of a long-term care provider cannot work in more than one LTC home, retirement home or other health care setting, even if they are fully immunized. This direction does not need to be exercised through a section 22 order under the *Health Protection and Promotion Act*.

**Q. When does this change for fully immunized employees take effect?**

A. The change to O. Reg. 146/20 with respect to an employee who is fully immunized against COVID-19 came into effect on April 23, 2021.

**Q. Where can I find the relevant regulatory amendments on employees working at a single site?**

A. O. Reg. 146/20 (Limiting Work to a Single Long-Term Care Home) under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, has been amended to permit fully immunized employees to work at more than one long-term care home, health care setting or retirement home. The amending regulation is available on e-laws at the following link: <https://www.ontario.ca/laws/regulation/r21309>

**Q. Are employees required to disclose whether they are fully vaccinated?**

While O.Reg. 146/20 does not require employees to disclose their vaccination status to an employer, employers (i.e., long-term care home providers) may request this information to determine whether an employee is fully immunized in order to enable that employee to work in more than one long-term care home, retirement home, or other health care setting. Licensees are responsible for ensuring that any collection of immunization status complies with all applicable laws and may seek legal advice on this topic. If proof of vaccination is not provided to the employer, the employer may assume the employee to be unvaccinated.

**Q. Are employees required to disclose which other long-term care homes or other health care settings they are working at?**

A. O.Reg. 146/20 does not require employees of long-term care licensees to disclose their places of employment to their employer, nor to the ministry itself. However, exercising the exemption in O.Reg. 146/20 would reasonably mean the employer needs to confirm the employee is eligible for the exemption. Both employees and the employer may wish to seek independent legal advice.

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**Q. What are the testing requirements for staff that work at more than one location?**

A. To ensure the safety and well-being of residents and employees, long-term care homes must comply with all applicable policies and directives to prevent transmission of COVID-19. Testing requirements are set out in the [Minister's Directive: COVID-19: Long-Term Care Home Surveillance Testing and Access to Homes](#) (dated May 21, 2021), which requires that licensees must ensure that all staff, caregivers, student placements, and volunteers working in or visiting the home take Antigen Tests or PCR Tests in accordance with the direction, frequency, and timing described in the Minister's Directive.

Surveillance testing is intended to help prevent the spread of COVID-19 within homes by ensuring that individuals entering the home can be screened simply and quickly and that positive COVID-19 cases that may otherwise be missed are identified.

Recognizing that homes (and other health care settings) have different models and potentially different testing frequency requirements, staff and homes will need to work together to determine how a result for a test performed at another site will be verified and recognized.

**Q. What are the requirements for employees should one of the homes they work for be in an outbreak?**

A. Directive #3 for Long-Term Care Homes under the *Long-Term Care Homes Act, 2007* gives local public health units the authority and discretion to coordinate outbreak investigation, declare an outbreak based on their investigation, and direct outbreak control measures. This includes defining the outbreak area and where outbreak measures must be applied (e.g., a single affected unit vs. the whole home), testing and isolation of residents and staff, as well as declaring the end of an outbreak.

If a long-term care home employee works in more than one long-term care home, health care setting and/or retirement home, and an outbreak is declared at that home and/or other health care setting, the employee should continue to work in only one location to minimize the potential spread of infection from one home to another. The employee should notify both employers and follow the direction of the local public health unit.

**Q: How can a fully vaccinated long-term care employee who works at multiple homes address conflicting scheduling by multiple employers?**

A: [O.Reg. 77/10](#) under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* permits health service providers (as per the meaning in the *Connecting Care Act, 2019*) to take, with respect to work deployment and staffing, any reasonably necessary

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measure to respond to, prevent and alleviate the outbreak of COVID-19. Without limiting the generality of the Regulation, and despite any other statute, regulation, order, policy, arrangement, or agreement, including a collective agreement, this permits long-term care home operators to identify staffing priorities and develop, modify and implement redeployment plans, including redeployment of employees, changing assignments and shift schedules.

The Ministry of Long-Term Care encourages employers to take reasonable steps to revise scheduling in cases when potential conflicts in scheduling arise among fully-vaccinated staff. Long-term care employees impacted by scheduling conflicts should notify their employers about the issue as soon as possible to ensure employers can address these concerns promptly.

**Q. Can an employee be disciplined or dismissed by an employer if they refuse an offer to return to work at a second home they had previously been prohibited from working at?**

A. Employees have the right to take unpaid, job-protected infectious disease emergency leave if they are not performing the duties of their position because of specified reasons related to a designated infectious disease. This leave is available to all employees who are covered by the *Employment Standards Act*. Employers cannot threaten, fire or penalize an employee in any other way because the employee took or plans on taking an infectious disease emergency leave.

The Ministry of Long-Term Care cannot provide legal advice to licensees or staff on any matter, including regarding whether infectious disease emergency leave applies to fully immunized staff based on the recent amendments to O. Reg. 146/20. Licensees, as employers, and staff, should consult legal counsel and their collective agreements to determine their legal rights and responsibilities.