

COVID-19 Vaccines: Screening Employees And Customers



We have seen exciting developments this week as Health Canada authorized the first COVID-19 vaccine for use in Canada. However, the authorization of the COVID-19 vaccine raises a number of new considerations for employers in the context of keeping their workplaces safe.

We previously wrote on guidance for screening employees for COVID-19 in our Back to Work in Saskatchewan: Employee Screening blog. The Office of the Saskatchewan Information and Privacy Commissioner has now released an advisory with additional guidance on screening as it relates to COVID-19 vaccines. Organizations and employers in all jurisdictions may find the guidance helpful as they navigate the challenges to keep workplaces safe.

The following is an overview of some key points from the advisory for employers to consider with respect to COVID-19 vaccines:

1. Can organizations ask whether a customer or employee has received a vaccination for COVID-19'

Employment legislation requires employers to provide a safe workplace within reasonable limits. However, employers addressing their obligation to provide a safe workplace in the context of COVID-19 should assess the many considerations on a case-by-case basis. This is particularly the case in the context of vaccines, and the advisory reminds organizations that they will need to consider a number of privacy and employment implications, before determining whether or not to screen for or require proof of vaccinations.

2. What privacy legislation applies'

After employers have addressed whether and how they should screen for COVID-19 vaccinations, it is critical to evaluate the privacy considerations that arise. This starts with an assessment of what privacy laws apply to the employer. Generally speaking, and particularly where there are gaps in privacy legislation, it is important for employers to supplement their review of privacy

legislation with a review of best practices for employee screening.

3. How should employers and organizations structure vaccine screening'

The advisory outlines the following questions for organizations to consider when structuring vaccine screening:

- What is the purpose of screening for COVID-19 vaccines'
- How will individuals be notified of the purpose of screening'
- What information will be collected'
- What if an individual refuses to be vaccinated or to provide proof of vaccination'
- How will information be used'
- How will information be shared'
- Where will information be stored'
- How will information be secured'
- When will information be destroyed'
- When will information be reported'
- How will the screening be documented'

These questions should be documented in a policy and/or privacy impact assessment.

Please note that the advisory provided by the Office of the Saskatchewan Information and Privacy Commissioner is not legal advice, and may not be determinative of employment or occupational health and safety matters. Employers are encouraged to obtain legal advice with respect to the full legal implications surrounding COVID-19 and COVID-19 vaccinations.

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