



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario

VIA ELECTRONIC MAIL

March 10, 2022

Dr. Catherine Zahn, Deputy Minister of Health
Ministry of Health – Deputy Minister's Office
College Park 5th Floor
777 Bay St
Toronto, ON M7A 2J3

and

Ms. Hillary Hartley, Chief Digital and Data Officer, Deputy Minister
Ministry of Finance - Office of the Chief Digital and Data Officer and Deputy Minister
10th Floor Suite 1002 Atrium on Bay
595 Bay St
Toronto, ON M5G 2C2

Dear Dr. Zahn and Ms. Hartley,

RE: Proof of Vaccination Certificates in Ontario

On September 14, 2021, the Government of Ontario announced that, to help address the fourth wave of the COVID-19 pandemic, it would require individuals in Ontario to provide proof of full vaccination against COVID-19 as well as personal identification to access certain non-essential businesses and settings, under section 2.1 of Schedule 1 of Ontario Regulation [364/20](#) made under the *Reopening Ontario (A Flexible Response To COVID-19) Act, 2020*. This regulation was time-limited and set to expire on, or before, December 31, 2021, but was extended to March 2022. In addition to providing individuals with proof of vaccination certificates, the government developed the Verify Ontario app to be used by businesses and organizations in certain settings to facilitate the verification of enhanced proof of vaccination certificates that include a QR code. Ontario's proof of vaccination certificate with a QR code has been designed in accordance with standards set by the Public Health Agency of Canada to facilitate its use for domestic and international travel and aligned to the SMART Health Cards standard for QR code data elements.

On December 10, 2021, the Government of Ontario announced that although the requirement to provide proof of vaccination was originally intended to be lifted on January 17, 2022, the lifting of the requirement would be delayed, in part due to the emergence of the Omicron variant. At the same time, the government announced that, effective January 4, 2022, individuals would be required to provide the enhanced proof of vaccination certificates that include the QR code in settings where proof of vaccination is required (i.e., vaccine receipts received at the time of vaccination or downloaded without a QR code would no longer be accepted). And, effective January 10, 2022, individuals with medical or clinical trial exemptions would also be required to provide a certificate with a QR code, as proof of their medical or clinical trial exemption (verified by an Ontario Public Health Unit).



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Throughout the development and implementation of this complex initiative, the Information and Privacy Commissioner of Ontario (IPC) met regularly with representatives of the various Ontario provincial government ministries involved to discuss the privacy and information security aspects of the initiative.

During the course of the consultation, the Government of Ontario provided the IPC with documentation and other information, set out in the Appendix to this letter, to demonstrate that the proof of vaccination certificate initiative was being developed and implemented in accordance with the privacy principles set out in the Federal/Provincial/Territorial privacy commissioners' [Joint Statement on Vaccine Passports](#) (the Joint Statement). I commend the government's commitment to incorporate and adhere to these principles.

The Joint Statement was released in May 2021 and sets out fundamental privacy principles that governments and businesses should adhere to when introducing vaccine passports (or proof of vaccination certificates). Notably, the Joint Statement takes the position that in light of the significant privacy risks involved, the necessity, effectiveness, and proportionality of proof of vaccination certificates must be established for each specific context in which they will be used.

In line with the Joint Statement, the IPC expects that proof of vaccination, such as this certificate initiative, will only be required where it can be shown as necessary and effective to achieve the intended public health purpose of reducing the spread of COVID-19. The impact on privacy would also need to be proportionate to the level of public health protections provided by the requirement. Only as much personal information as needed should be collected, used, or disclosed to achieve each intended purpose.

During the consultation process, the IPC provided feedback on the broad range of documents as described in the Appendix to this letter. IPC feedback and guidance focused on ensuring that appropriate privacy and security safeguards were considered during the development and implementation of the program, both in the original vaccine receipt and with the enhanced QR code vaccine certificate.

The IPC also expects that the proof of vaccination certificate program will end once the program no longer meets the public health purpose of curbing the spread of the virus, or, if necessary, will be restricted to specific purposes that continue to meet the necessity, effectiveness and proportionality test for the specific context.

On March 1, 2022, the Government of Ontario lifted the requirements to show proof of vaccination for all settings. Businesses and other settings may choose to continue to require proof of vaccination, and proof of vaccination will likely continue to be required for other purposes such as work or travel due to specific, contextual public health risks. In addition, as the pandemic continues to be a fluid situation, the Government of Ontario may decide to re-implement the proof of vaccination certificate initiative in certain settings in Ontario.

As such, and to help ensure ongoing protection of the privacy rights of Ontarians as the proof of vaccination certificate initiative continues to be required in certain contexts, I urge the government to implement the recommendations set out in the Appendix to this letter.

I commend the Government of Ontario's commitment to actively engage my office during the development of this initiative and to respond effectively to feedback provided by the IPC throughout the consultation process to date and as may continue to be necessary in the evolving situation.

Please note that it is our intention to make this letter publicly available on our website.

We appreciate the opportunity we have had to consult with you to date and for your notable collaboration throughout.

Sincerely,

A handwritten signature in black ink, appearing to read "Kosseim", with a horizontal line underneath the name.

Patricia Kosseim
Commissioner

cc: Mr. John Roberts, Chief Privacy Officer & Archivist of Ontario | Chief Information Security Officer, Ministry of Government and Consumer Services

Appendix

Background and Final Recommendations

During the initial phase of the proof of vaccination initiative, the following four options were accepted as proof of vaccination in Ontario:

- Option 1 — Paper receipt received at the time of vaccination
- Option 2 — Proof of vaccination downloaded/printed by the individual via the [COVID-19 vaccination provincial portal](#)
- Option 3 — Proof of vaccination obtained by mail by calling the Provincial Vaccine Contact Centre
- Option 4 — Proof of vaccination printed by attending a ServiceOntario location in person

Effective September 22, 2021, individuals in Ontario were required to provide proof of vaccination along with proof of identification to access certain non-essential businesses and settings. Effective October 22, 2021, enhanced proof of vaccination certificates with QR codes were available to Ontarians and could be scanned by businesses and organizations through the use of the government-approved Verify Ontario app. The scanned QR code provides an individual's vaccination status data in a format that can be validated, and their identity verified to ensure the holder is the subject of the vaccination data. In the initial stages of the initiative, the paper vaccine receipts without QR codes were accepted as valid proof of vaccination even after the enhanced QR code version was introduced. However, on December 10, 2021 the government announced that the enhanced proof of vaccination certificates with QR codes would be required effective January 4, 2022. And, effective January 10, 2022, individuals with medical or clinical trial exemptions would also be required to provide a certificate with a QR code, as proof of their medical or clinical trial exemption (verified by an Ontario Public Health Unit). Individuals who refuse to present proof of vaccination, and to whom the exemptions to provide proof of vaccination do not apply, would be denied access to the premises.

On March 1, 2022, the government lifted the requirements for certain businesses or organizations in the province of Ontario to obtain proof of vaccination. However, vaccination certificates may continue to be used both in Ontario and elsewhere for the foreseeable future.

Throughout the development and implementation of this complex initiative, the IPC met regularly with representatives of the various Ontario provincial government ministries involved to discuss the privacy and information security aspects of the initiative.

In addition, the IPC reviewed and provided comments on the following documents:

1. Privacy Impact Assessment, Ontario's Vaccine Credential
2. Vaccination Record Printing by ServiceOntario, Privacy Impact Assessment (mini)
3. Vaccine Certificates through the Provincial Vaccine Contact Centre, Privacy Impact Assessment (mini)
4. Provincial Vaccine Contact Centre Vaccine Certificate Manual Mailing, Privacy Impact Assessment 1.0 October 5, 2021

5. Privacy Impact Assessment Addendum: Medical and Clinical Trial Exemptions in the COVID-19 Credential
6. Provincial Vaccine Contact Centre Infrastructure Technology Services, MGCS GovTechON, Privacy Impact Assessment
7. Terms of Use for the Verify Ontario app
8. Privacy Statement for the Verify Ontario app
9. Rapid Security and Threat Risk Assessment for Ontario Verify App (Security Summary)
10. GA4 Analytics Options (presented as a deck for consultation)
11. Proof of Vaccination Guidance for Businesses and Organizations under the *Reopening Ontario Act*
12. Amending regulations made under the *Reopening Ontario (A Flexible Response To Covid-19) Act, 2020* which amended [O. Reg. 364/20](#) (Rules For Areas At Step 3 and At The Roadmap Exit Step), and included [O. Reg. 645-21](#), and [O. Reg. 710-21](#).

These documents represent the materials relevant to the consultations that took place in the late summer, fall and winter of 2021/2022, as they related to the government's more advanced stages of the initiative. They do not include consultations on decks or other materials provided in earlier stages of the initiative in the spring of 2021.

As the proof of vaccination certificate initiative continues to be required in certain contexts, the IPC recommends the following to help ensure ongoing protection of the privacy rights of Ontarians:

Terms of Use and Privacy Statement

- Ensure that the Terms of Use and Privacy Statement for the Verify Ontario app are regularly reviewed and updated to reflect legislative and regulatory amendments as well as updates to the Ministry of Health's mandatory requirements under its Proof of Vaccination Guidance for Businesses and Organizations under the *Reopening Ontario Act* document for businesses and organizations.

Websites about the Proof of Vaccination Certificates and Verify Ontario App

- Ensure that information on websites intended to provide information to the public, businesses or organizations with respect to the proof of vaccination certificates or the Verify Ontario app are kept up-to-date. Information should be presented in plain language and contain sufficient detail to be fully informative to the individual, business or organization;
- Ensure that the websites are maintained and kept up-to-date so long as proof of vaccination certificates or the Verify Ontario app are used by Ontarians in any context for any lawful purpose (e.g., access to premises, work, domestic or international travel); and
- Ensure that the websites contain a contact number should individuals, businesses or organizations have questions about the proof of vaccination certificates or the Verify Ontario app.

Agreements

- Ensure that all agreements necessary to enable the initiative, including those with other ministries, Public Health Units, other agents, sub-agents, and other third parties are executed, and amended as necessary, in a timely manner.

Privacy Impact Assessments

- Address all comments made by the IPC as well as the recommendations set out in the Privacy Impact Assessments; and
- Ensure that the Privacy Impact Assessments are kept up-to-date and summaries of the Privacy Impact Assessments are made available to the public upon request.

Necessity, Proportionality and Effectiveness

- Develop and implement a plan for ongoing assessment of the necessity, effectiveness and proportionality of the proof of vaccination credential initiative for each purpose for which it is being used. Discontinue the initiative if it is found not to be a necessary, effective or proportionate response to help curtail the spread of COVID-19 in Ontario and elsewhere, or, if necessary, restrict the initiative to specific purposes that continue to meet the necessity, effectiveness and proportionality test for the specific context;
- Make available to the public all metrics obtained through the use of the Verify Ontario app and all reports on the effectiveness of the proof of vaccination certificate initiative; and
- Should the prevailing scientific evidence indicate that the proof of vaccination certificate initiative is not, or is no longer, effective in achieving its intended purpose(s), ensure that the initiative and the Verify Ontario app are decommissioned and that all data collected through the app are securely deleted accordingly.

Independent Oversight

- Keep the IPC informed of any significant changes to the proof of vaccination certificate initiative, including changes to the Verify Ontario app that may impact the privacy of individuals or the security of personal health information and any systems necessary to support the initiative.

Monitoring of Third Party Tools

- Develop a plan for the ongoing monitoring of the privacy risks posed by any third party tools, such as Google Analytics, used to generate metrics for the Verify Ontario app.