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## *Ontario Human Rights Commission on Vaccination Exemptions: “Personal Preferences” and “Singular Beliefs” Against Vaccination not Protected by Human Rights Legislation*

By Peter C. Straszynski

In past articles, we have emphasized that mandatory vaccination policies in the workplace are generally permissible, subject to legitimate objections that may be raised on the basis of grounds protected under human rights legislation. While medical (disability) grounds for objection to vaccination are an obvious candidate, there has been some speculation as to whether “religious” objections might legitimately warrant an exception, thereby triggering the employer’s “duty to accommodate.”

There have thus far been no decisions from the *Ontario Human Rights Tribunal* on these thorny accommodation issues. On September 22, 2021, however (contemporaneous with the introduction of Ontario’s new Vaccine Passport requirement) the *Ontario Human Rights Commission* published a statement on the topic of mandatory vaccination, confirming the Commission’s position that:

“a person who chooses not to be vaccinated based on personal preference does not have the right to accommodation under the *Code*... While the *Code* prohibits discrimination based on “creed”, personal preferences or singular beliefs do not amount to a creed for the purposes of the *Code*.”

The protected ground of “creed” under the *Code* encompasses “religious creed” and “religion.” The Commission’s statement goes on to say that:

“if a person could show they were denied a service or employment because of a creed-based belief against vaccinations, the duty to accommodate does not necessarily require they be exempted from vaccine mandates, certification or COVID testing requirements. The duty to accommodate can be limited if it would significantly compromise health and safety amounting to undue hardship - such as during a pandemic.”

While this statement seems to leave the door open for objections based on “religious” beliefs (rather than purely “personal” or “singular” ones), employers (and employment law counsel) may have to wait for the Tribunal to render a decision on this specific issue before gaining more clarity and certainty. The statement also suggests that the test of (the threshold for) “undue hardship” may be somewhat relaxed during the pandemic.

If you have any questions about return to work and vaccination policies at your place of business, please contact any member of our Employment & Labour Law Group.

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