

Our reference: **ACTHDFOI22-23.12**

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by ACT Health Directorate (ACTHD) on **Thursday 13 October 2022**.

The application requested access to:

'Meeting papers of the AHPPC (Australian Health Protection Principal Committee) where mandatory vaccination of frontline health workers was referenced or discussed.'

I am an Information Officer appointed by the Director-General of ACT Health Directorate (ACTHD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. ACTHD was required to provide a decision on your access application by **Thursday 1 December 2022**.

I have identified five documents holding the information within scope of your access application. These are outlined in the schedule of documents included at [Attachment A](#) to this decision letter.

Decisions

I have decided to grant partial access to five documents.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as [Attachment B](#) to this letter.

In reaching my access decision, I have taken the following into account:

- The FOI Act;
- The contents of the documents that fall within the scope of your request;
- The views of relevant third parties; and
- The *Human Rights Act 2004*.

Partial Access

Partial redactions have been made to the documents where it contains information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act. The information contained in these folios is partially comprised of personal information and information obtained through confidential discussions including information that relates to other jurisdictions and business affairs of other agencies. The disclosure of this information is highly likely to cause harm by prejudicing the deliberative process of government by discouraging the AHPPC committee from providing full and candid advice, and could reasonably be expected to prejudice intergovernmental relations.

Public Interest Factors Favouring Disclosure

The following factors were considered relevant in favour of the disclosure of the documents:

- Schedule 2, 2.1(a)(i) promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2, 2.1(a)(ii) contribute to positive and informed debate on important issues or matters of public interest;
- Schedule 2, 2.1(a)(iv) ensure effective oversight of expenditure of public funds; and
- Schedule 2, 2.1(a)(viii) reveal the reason for a government decision and any background or contextual information that informed the decision.

Public Interest Factors Favouring Non-Disclosure

The following factors were considered relevant in favour of the non-disclosure of the documents:

- Schedule 2, Schedule 2.2 (a)(ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*;
- Schedule 2, Schedule 2.2 (a)(x) prejudice intergovernmental relations; and
- Schedule 2, Schedule 2.2 (a)(xvi) prejudice a deliberative process of government.

Following the consideration of the above factors I have decided, regarding personal information and confidential business affairs information of agencies external to ACT Government, the factors favouring non-disclosure outweighed the factors favouring disclosure. Therefore, and I have determined the information identified is contrary to the public interest and I have decided not to disclose this information.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, ACTHD maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in ACT Health's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman

GPO Box 442

CANBERRA ACT 2601

Via email: ACTFOI@ombudsman.gov.au

Website: ombudsman.act.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9831 or email HealthFOI@act.gov.au.

Yours sincerely



Vanessa Dal Molin
Executive Branch Manager
COVID-19 Policy & Support

1 December 2022

FREEDOM OF INFORMATION SCHEDULE OF DOCUMENTS

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <http://www.health.act.gov.au/public-information/consumers/freedom-information>

APPLICANT NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	FILE NUMBER
<div style="background-color: black; width: 100px; height: 15px; margin-bottom: 5px;"></div> (Media)	<i>'Meeting papers of the AHPPC (Australian Health Protection Principal Committee) where mandatory vaccination of frontline health workers was referenced or discussed.'</i>	ACTHDFOI22-23.12

Ref Number	Page Number	Description	Date	Status Decision	Factor	Open Access release status
1.	1 – 19	Email with attachments – FW_ ACTION _ Agenda 3 September 2021, commencing at 1 PM AEST	03 September 2021	Partial Release	Schedule 2, 2.2 (a)(ii) Privacy, Schedule 2, 2.2 (a)(x) Intergovernmental relations & Schedule 2, 2.2 (a)(xvi) Deliberative process of government	YES
2.	20 – 40	Email with attachments – FW_ ACTION _ Agenda and Papers, Thursday 9 September 2021, commencing at 12_30 PM AEST	09 September 2021	Partial Release	Schedule 2, 2.2 (a)(ii) Privacy, Schedule 2, 2.2 (a)(x) Intergovernmental relations & Schedule 2, 2.2 (a)(xvi) Deliberative process of government	YES

3.	41 – 48	Email with attachments – FW_ ACTION _ Agenda and Paper, Monday 27 September 2021, commencing at 12_30 PM AEST	27 September 2021	Partial Release	Schedule 2, 2.2 (a)(ii) Privacy, Schedule 2, 2.2 (a)(x) Intergovernmental relations & Schedule 2, 2.2 (a)(xvi) Deliberative process of government	YES
4.	49 – 52	Email with attachment – FW_ OOS 2021_88 Mandatory Vaccination for Healthcare workers - URGENT ENDORSEMENT REQUIRED	28 September 2021	Partial Release	Schedule 2, 2.2 (a)(ii) Privacy, Schedule 2, 2.2 (a)(x) Intergovernmental relations & Schedule 2, 2.2 (a)(xvi) Deliberative process of government	YES
5.	53 – 56	Email with attachment – FW_ URGENT - FINAL REVIEW HCW Statement	29 September 2021	Partial Release	Schedule 2, 2.2 (a)(ii) Privacy	YES
Total Number of Documents						
5						

From: Coleman, Kerry (Health)
Sent: Friday, 3 September 2021 11:54 AM
To: Ryan, Liam (Health); ACT Health Office of the Chief Health Officer; Connell, Patrick (Health)
Subject: FW: ACTION : Agenda 3 September 2021, commencing at 1 PM AEST [SEC=OFFICIAL]
Attachments: [REDACTED] Agenda Item 4 - Mandated Vaccinations for HCW.docx; Agenda Item 4 - Attachment A - Gazette.pdf; Agenda Item 4 - Attachment B - Australian Health Protection Principal Committee - Draft Statement.docx

From: AHPPC Secretariat [REDACTED]
Sent: Friday, September 3, 2021 11:51:14 AM (UTC+10:00) Canberra, Melbourne, Sydney
To: [REDACTED] Coleman,
Kerry (Health) <Kerry.Coleman@act.gov>
[REDACTED] Johnston, Vanessa (Health) <Vanessa.Johnston@act.gov.au>;
[REDACTED]
Subject: ACTION : Agenda 3 September 2021, commencing at 1 PM AEST [SEC=OFFICIAL]

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****NOTE: THESE PAPERS ARE COMMITTEE-IN-CONFIDENCE AND ARE NOT TO BE CIRCULATED****

Dear AHPPC members
Please see the agenda for the AHPPC meeting on Friday 3 September 2021, commencing at 1PM AEST
Please find below the details to join the meeting via Webex.

Agenda	Item	Speaker/s
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4 Paper	Mandatory vaccination for Health Care Workforce	Chair

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Join meeting

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<https://health-au.webex.com/health-au/j.php?MTID=mdd2ff76a44801b7f80db5a367395350c>

Join by meeting number

Meeting number (access code): 1659 42 8662

Meeting password: WRw26mtyEY8

Tap to join from a mobile device (attendees only)

+61-2-9338-2221,,1659428662## Australia Toll

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Dial [1659428662@health-au.webex.com](tel:1659428662@health-au.webex.com)

You can also dial 210.4.202.4 and enter your meeting number.

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Dial [1659428662.health-au@lync.webex.com](tel:1659428662.health-au@lync.webex.com)

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Kind regards



Australian Health Protection Principal Committee (AHPPC)
of the Australian Health Ministers' Advisory Council (AHMAC)

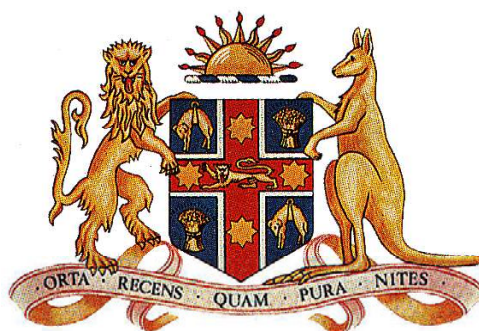
Office of Health Protection | Australian Government Department of Health

T: [REDACTED] | E: [REDACTED]

A: MDP 140, GPO Box 9848, CANBERRA ACT 2601, Australia

I acknowledge the traditional custodians of the lands and waters where we live and work, and pay my respects to elders past and present.

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Government Gazette

of the State of

New South Wales

Number 411—Health and Education

Thursday, 26 August 2021

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

Each notice in the Government Gazette has a unique reference number that appears in parentheses at the end of the notice and can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal, see the Gazette page.



New South Wales

Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021

under the

Public Health Act 2010

I, Brad Hazzard, the Minister for Health and Medical Research, make the following Order under the *Public Health Act 2010*, section 7.

Dated 26 August 2021 at 9.54am.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to require certain health care workers to be vaccinated against COVID-19.

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Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021*.

2 Definitions

(1) In this Order—

authorised person, in relation to a health care worker, means—

- (a) a responsible person for a worker, and
- (b) a person authorised by a responsible person.

COVID-19 vaccine means a vaccine approved by the Therapeutic Goods Administration of the Commonwealth for use as a vaccine against COVID-19.

health care worker means each of the following—

- (a) a person who does work, including as a member of staff of the NSW Health Service, for any of the following—
 - (i) a public health organisation within the meaning of the *Health Services Act 1997*,
 - (ii) the Health Administration Corporation,
 - (iii) the Ambulance Service of NSW,
- (b) a registered paramedic who does work involving transporting, or assessing whether to transport, persons to or from a hospital or public health facility, including any treatment incidental to the work,
- (c) a member of staff of the Ministry of Health,
- (d) a person who does work at a private health facility,
- (e) another person, or a person belonging to a class of persons, who does work specified by the Chief Health Officer as the work of a health care worker for this Order in a notice published on the website of NSW Health.

health practitioner means a natural person who provides a health service within the meaning of the *Health Care Complaints Act 1993*, whether or not the person is registered under the *Health Practitioner Regulation National Law (NSW)*.

medical contraindication certificate for a health care worker means a certificate issued by a medical practitioner—

- (a) in a form approved by the Chief Health Officer, and
- (b) certifying that because of a specified medical contraindication, the worker to whom the certificate has been issued cannot have a COVID-19 vaccine.

place of residence includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

private health facility has the same meaning as in the *Private Health Facilities Act 2007*.

responsible person for a health care worker means—

- (a) the person who employs or engages the worker to work as a health care worker, and
- (b) a person who exercises employer functions for the person who employs the worker to work as a health care worker, and

Example—The *Government Sector Employment Act 2013* makes provision for particular persons to exercise employer functions for the Government of New South Wales in relation to persons employed by the Government.

- (c) if the worker is a student on a student placement to do work as a health care worker—the supervisor of the student, and
- (d) if the worker is or has entered premises, other than a place of residence, to do work as a health care worker—the occupier of the premises.

the Act means the *Public Health Act 2010*.

vaccination evidence for a health care worker means evidence from the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* of the Commonwealth that the worker has had 1 or more doses of a COVID-19 vaccine.

Example—An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register.

work includes—

- (a) work done under a contract of service or a contract for services, including work done by a visiting practitioner within the meaning of the *Health Services Act 1997*, and
- (b) work done as a volunteer or by or for a charitable organisation, and
- (c) work done by a student on a student placement, and
- (d) work done on a temporary basis, including while acting in or filling an office or other role because of a vacancy or absence.

Note—The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

- (2) Notes included in this Order do not form part of this Order.

3 Grounds for concluding that there is a risk to public health

It is noted that the basis for concluding that a situation has arisen that is, or is likely to be, a risk to public health is as follows—

- (a) public health authorities both internationally and in Australia have been monitoring and responding to outbreaks of COVID-19, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have recently been confirmed in New South Wales and other Australian jurisdictions, and there is an ongoing risk of continuing introduction or transmission of the virus in New South Wales, including by means of community transmission,
- (d) the risk of transmission, including by means of community transmission, of COVID-19 in New South Wales will remain significant and ongoing unless more COVID-19 vaccines are administered.

Part 2 Directions concerning vaccination of health care workers

4 Directions of Minister for health care workers to be vaccinated

- (1) The Minister directs that a health care worker must not do work as a health care worker unless—
 - (a) if the work is done on or after 30 September but before 30 November 2021—the worker has received at least 1 dose of a COVID-19 vaccine, or
 - (b) if the work is done on or after 30 November 2021—the worker has received at least 2 doses of a COVID-19 vaccine.
- (2) The Minister directs that a health care worker must, if required to do so by an authorised person on or after the commencement of this Order, provide vaccination evidence for the worker.
- (3) Subclauses (1) and (2) do not apply to—
 - (a) a health practitioner who does work as a health care worker in response to a medical emergency, or
 - (b) another person who does work as a health care worker in response to a non-medical emergency, for example, a fire, flooding or a gas leak.

5 Direction of Minister for responsible persons for health care workers

The Minister directs that each responsible person for a health care worker must take all reasonable steps to ensure that the health care worker to whom clause 4 applies complies with the directions of the clause.

Part 3 Miscellaneous

6 Exemptions

- (1) Clause 4 does not apply to a health care worker who—
 - (a) is unable, due to a medical contraindication, to receive a COVID-19 vaccine, and
 - (b) presents a medical contraindication certificate for the worker to a responsible person for the worker.
- (2) The Minister may, in writing and subject to conditions the Minister considers appropriate, exempt a person or class of persons from the operation of this Order if the Minister is satisfied it is necessary to protect the health and well-being of persons.



New South Wales

Public Health (COVID-19 Aged Care Facilities) Order 2021

under the

Public Health Act 2010

I, Brad Hazzard, the Minister for Health and Medical Research, make the following Order under the *Public Health Act 2010*, section 7.

Dated 26 August 2021.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to provide that from 9am on 17 September 2021 persons employed at residential aged care facilities and contractors providing health and personal care services in those facilities may only enter the facility if they have received at least 1 dose of a COVID-19 vaccine.

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Public Health (COVID-19 Aged Care Facilities) Order 2021

under the

Public Health Act 2010

1 Name of Order

This Order is the *Public Health (COVID-19 Aged Care Facilities) Order 2021*.

2 Commencement

This Order commences at 9am on 17 September 2021.

3 Definitions

(1) In this Order—

COVID-19 vaccine means a vaccine approved by the Therapeutic Goods Administration of the Commonwealth for use as a vaccine against COVID-19.

health practitioner means a natural person who provides a health service, whether or not the person is registered under the *Health Practitioner Regulation National Law (NSW)*.

health service has the same meaning as in the *Health Care Complaints Act 1993*.

operator, of a residential aged care facility, means a person who controls or operates the facility.

maintenance contractor means a person undertaking 1 or more of the following—

- (a) building work of a type of listed in the *Home Building Regulation 2014*, clause 13,
- (b) specialist work of a type listed in the *Home Building Regulation 2014*, clause 14,
- (c) gardening and other maintenance to the grounds of the facility,
- (d) maintenance services of a type approved by the Chief Health Officer for the purposes of this definition.

residential aged care facility means a facility at which the following services are provided to a person in relation to whom a residential care subsidy or flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth—

- (a) accommodation,
- (b) personal care or nursing care.

student means a person undertaking a clinical placement or work experience, however described, at a residential aged care facility.

the Act means the *Public Health Act 2010*.

vaccination evidence means evidence from the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* of the Commonwealth that the worker has had 1 or more doses of a COVID-19 vaccine.

Example— An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

- (2) Notes included in this Order do not form part of this Order.

4 Grounds for concluding that there is a risk to public health

It is noted that the basis for concluding that a situation has arisen that is, or is likely to be, a risk to public health is as follows—

- (a) public health authorities both internationally and in Australia have been monitoring and responding to outbreaks of COVID-19, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have recently been confirmed in New South Wales and other Australian jurisdictions, and there is an ongoing risk of continuing introduction or transmission of the virus in New South Wales, including by means of community transmission,
- (d) the risk of transmission, including by means of community transmission, of COVID-19 in New South Wales will remain significant and ongoing unless more COVID-19 vaccines are administered.

5 Direction—unvaccinated workers not to enter residential aged care facilities

- (1) The Minister directs that the following persons must not enter or remain on the premises of a residential aged care facility unless the person has received at least 1 dose of a COVID-19 vaccine—
 - (a) an employee of the operator of the facility,
 - (b) a person who provides services for the facility or for 1 or more residents of the facility under a contract or arrangement with any person, but not including the following—
 - (i) a maintenance contractor,
 - (ii) a person who provides services to a resident of the facility under a contract or arrangement with the resident,
 - (iii) a student.

Note— This direction has effect from the commencement of the Order at 9am on 17 September 2021.

- (2) Subclause (1) does not apply to a person who enters a residential aged care facility to respond to—
 - (a) a medical emergency, or
 - (b) a non-medical emergency, for example, a fire, flooding or a gas leak.

6 Direction—unvaccinated health practitioners and students not to enter residential aged care facilities

- (1) The Minister directs that after 9am on 31 October 2021 the following persons must not enter or remain on the premises of a residential aged care facility unless the person has received at least 1 dose of a COVID-19 vaccine—
 - (a) health practitioners,
 - (b) students.

Note— A person who is vaccinated to comply with the direction under clause 5 complies with this direction.

- (2) Subclause (1) does not apply to a health practitioner who enters a residential aged care facility to respond to a medical emergency.

- (3) To avoid doubt, this clause does not effect the requirement for a person to be vaccinated under clause 5.

7 Directions—evidence of vaccination

- (1) The Minister directs that the operator of a residential aged care facility must take all reasonable steps to ensure that a person subject to a direction under clause 5 or clause 6 complies with the direction.
- (2) The Minister directs that a person subject to a direction under clause 5 or clause 6 must, if required to do so by the operator of a residential aged care facility, provide the operator with vaccination evidence.

8 Exemptions

- (1) Clauses 5, 6 and 7(2) do not apply to a person who—
- (a) is unable, due to a medical contraindication, to be vaccinated against COVID-19, and
 - (b) presents to the operator of the residential aged care facility a certificate, in the form approved by the Chief Health Officer, issued by a medical practitioner, specifying the medical contraindication that makes the person unable to be vaccinated.
- (2) The Minister may, in writing and subject to conditions the Minister considers appropriate, exempt a person from the operation of this Order if the Minister is satisfied it is necessary to protect the health and well-being of the residents of a residential aged care facility.



AHPPC STATEMENT: MANDATORY VACCINATION OF ALL WORKERS IN HEALTH CARE SETTINGS

AHPPC recommends that all jurisdictions legislate mandatory vaccinations for all workers in health care settings as a condition of work with a first dose of a TGA approved COVID-19 vaccination by 30 September 2021 and a second dose by 23 December 2021.

AHPPC further recommends that a national definition of health care setting should be accepted by all jurisdictions in their relevant legislation to ensure national consistency. This national definition will include:

- Public health settings including public hospitals, public health clinics, ambulance services, patient transport services, and other health services managed by a jurisdiction.
- Private health facilities, being a private hospital or day procedure centre, or specialist outpatient services.
- Private provider facilities, such as general practitioners, private nurse offices and consulting offices.
- Education settings in which health care students are managed to undertake placement, registration, and/or internships in clinical settings

A substantial health workforce has been necessary to rollout testing and training, vaccination, quarantine and treatment of COVID-19 patients within the public and private health sectors. Hospitals and health services have been particularly vulnerable to outbreaks resulting in transmission risk within the hospital to staff and patients and the furlough of staff and reduction in health system capacity. Although identified as a priority group for vaccination, there are still workers in health care settings who have yet to be vaccinated.

Vaccination of persons entering health care settings is an important mechanism to protect the public, staff and patients within these settings. AHPPC has consistently noted in its previous statements regarding mandatory vaccinations for other workforces that in an outbreak, vaccinated individuals are less likely to be significant drivers of spread, and transmission is dominated by unvaccinated people. AHPPC also notes increased rates of community transmission, with the Delta variant present in Australia and increased risk of exposure to both staff and patients in health care settings.

AHPPC notes that mandating vaccination for the HCW cohort could have unintended consequences, including on the availability of the workforce and place increased pressure on a jurisdiction's capacity to meet demand. However, the benefits of a highly vaccinated workforce in reducing workforce impact through minimising transmission in a facility and potentially minimising the requirement to quarantine or furlough in vaccinated staff, is considered to outweigh the potential unintended consequences of mandating vaccination.

Please see the agenda and papers for the AHPPC meeting on Thursday 9 September 2021, commencing at 12:30 AEST

Please find below the details to join the meeting via Webex.

4 Paper	Work Permissions and Restrictions Framework for Workers in Health Care Settings.	Dr Sonya Bennett
5 Paper	Mandatory vaccination for HCW Jurisdictional Updates	Dr Sonya Bennett

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<https://health-au.webex.com/health-au/j.php?MTID=m738285375b760ac9c03cfa3a31978212>

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Meeting number (access code): 2651 914 8748

Meeting password: 2jiFhX7ePS3

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Join by phone

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Join from a video system or application

Dial [26519148748@health-au.webex.com](tel:26519148748)

You can also dial 210.4.202.4 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial [26519148748.health-au@lync.webex.com](tel:26519148748)

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Kind regards

**Australian Health Protection Principal Committee (AHPPC)**
of the Australian Health Ministers' Advisory Council (AHMAC)

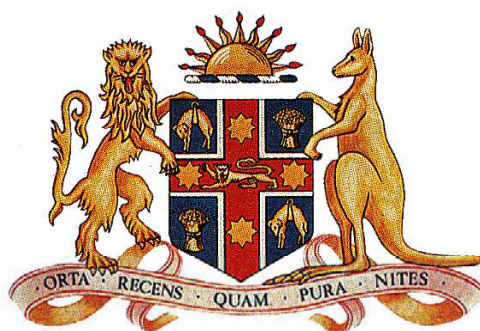
Office of Health Protection | Australian Government Department of Health

T: [REDACTED] | E: [REDACTED]

A: MDP 140, GPO Box 9848, CANBERRA ACT 2601, Australia

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Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021*.

2 Definitions

(1) In this Order—

authorised person, in relation to a health care worker, means—

- (a) a responsible person for a worker, and
- (b) a person authorised by a responsible person.

COVID-19 vaccine means a vaccine approved by the Therapeutic Goods Administration of the Commonwealth for use as a vaccine against COVID-19.

health care worker means each of the following—

- (a) a person who does work, including as a member of staff of the NSW Health Service, for any of the following—
 - (i) a public health organisation within the meaning of the *Health Services Act 1997*,
 - (ii) the Health Administration Corporation,
 - (iii) the Ambulance Service of NSW,
- (b) a registered paramedic who does work involving transporting, or assessing whether to transport, persons to or from a hospital or public health facility, including any treatment incidental to the work,
- (c) a member of staff of the Ministry of Health,
- (d) a person who does work at a private health facility,
- (e) another person, or a person belonging to a class of persons, who does work specified by the Chief Health Officer as the work of a health care worker for this Order in a notice published on the website of NSW Health.

health practitioner means a natural person who provides a health service within the meaning of the *Health Care Complaints Act 1993*, whether or not the person is registered under the *Health Practitioner Regulation National Law (NSW)*.

medical contraindication certificate for a health care worker means a certificate issued by a medical practitioner—

- (a) in a form approved by the Chief Health Officer, and
- (b) certifying that because of a specified medical contraindication, the worker to whom the certificate has been issued cannot have a COVID-19 vaccine.

place of residence includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

private health facility has the same meaning as in the *Private Health Facilities Act 2007*.

responsible person for a health care worker means—

- (a) the person who employs or engages the worker to work as a health care worker, and
- (b) a person who exercises employer functions for the person who employs the worker to work as a health care worker, and

Example—The *Government Sector Employment Act 2013* makes provision for particular persons to exercise employer functions for the Government of New South Wales in relation to persons employed by the Government.

- (c) if the worker is a student on a student placement to do work as a health care worker—the supervisor of the student, and
- (d) if the worker is or has entered premises, other than a place of residence, to do work as a health care worker—the occupier of the premises.

the Act means the *Public Health Act 2010*.

vaccination evidence for a health care worker means evidence from the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* of the Commonwealth that the worker has had 1 or more doses of a COVID-19 vaccine.

Example—An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register.

work includes—

- (a) work done under a contract of service or a contract for services, including work done by a visiting practitioner within the meaning of the *Health Services Act 1997*, and
- (b) work done as a volunteer or by or for a charitable organisation, and
- (c) work done by a student on a student placement, and
- (d) work done on a temporary basis, including while acting in or filling an office or other role because of a vacancy or absence.

Note—The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

- (2) Notes included in this Order do not form part of this Order.

3 Grounds for concluding that there is a risk to public health

It is noted that the basis for concluding that a situation has arisen that is, or is likely to be, a risk to public health is as follows—

- (a) public health authorities both internationally and in Australia have been monitoring and responding to outbreaks of COVID-19, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have recently been confirmed in New South Wales and other Australian jurisdictions, and there is an ongoing risk of continuing introduction or transmission of the virus in New South Wales, including by means of community transmission,
- (d) the risk of transmission, including by means of community transmission, of COVID-19 in New South Wales will remain significant and ongoing unless more COVID-19 vaccines are administered.

Part 2 Directions concerning vaccination of health care workers

4 Directions of Minister for health care workers to be vaccinated

- (1) The Minister directs that a health care worker must not do work as a health care worker unless—
 - (a) if the work is done on or after 30 September but before 30 November 2021—the worker has received at least 1 dose of a COVID-19 vaccine, or
 - (b) if the work is done on or after 30 November 2021—the worker has received at least 2 doses of a COVID-19 vaccine.
- (2) The Minister directs that a health care worker must, if required to do so by an authorised person on or after the commencement of this Order, provide vaccination evidence for the worker.
- (3) Subclauses (1) and (2) do not apply to—
 - (a) a health practitioner who does work as a health care worker in response to a medical emergency, or
 - (b) another person who does work as a health care worker in response to a non-medical emergency, for example, a fire, flooding or a gas leak.

5 Direction of Minister for responsible persons for health care workers

The Minister directs that each responsible person for a health care worker must take all reasonable steps to ensure that the health care worker to whom clause 4 applies complies with the directions of the clause.

Part 3 Miscellaneous

6 Exemptions

- (1) Clause 4 does not apply to a health care worker who—
 - (a) is unable, due to a medical contraindication, to receive a COVID-19 vaccine, and
 - (b) presents a medical contraindication certificate for the worker to a responsible person for the worker.
- (2) The Minister may, in writing and subject to conditions the Minister considers appropriate, exempt a person or class of persons from the operation of this Order if the Minister is satisfied it is necessary to protect the health and well-being of persons.



New South Wales

Public Health (COVID-19 Aged Care Facilities) Order 2021

under the

Public Health Act 2010

I, Brad Hazzard, the Minister for Health and Medical Research, make the following Order under the *Public Health Act 2010*, section 7.

Dated 26 August 2021.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to provide that from 9am on 17 September 2021 persons employed at residential aged care facilities and contractors providing health and personal care services in those facilities may only enter the facility if they have received at least 1 dose of a COVID-19 vaccine.

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Public Health (COVID-19 Aged Care Facilities) Order 2021

under the

Public Health Act 2010

1 Name of Order

This Order is the *Public Health (COVID-19 Aged Care Facilities) Order 2021*.

2 Commencement

This Order commences at 9am on 17 September 2021.

3 Definitions

(1) In this Order—

COVID-19 vaccine means a vaccine approved by the Therapeutic Goods Administration of the Commonwealth for use as a vaccine against COVID-19.

health practitioner means a natural person who provides a health service, whether or not the person is registered under the *Health Practitioner Regulation National Law (NSW)*.

health service has the same meaning as in the *Health Care Complaints Act 1993*.

operator, of a residential aged care facility, means a person who controls or operates the facility.

maintenance contractor means a person undertaking 1 or more of the following—

- (a) building work of a type of listed in the *Home Building Regulation 2014*, clause 13,
- (b) specialist work of a type listed in the *Home Building Regulation 2014*, clause 14,
- (c) gardening and other maintenance to the grounds of the facility,
- (d) maintenance services of a type approved by the Chief Health Officer for the purposes of this definition.

residential aged care facility means a facility at which the following services are provided to a person in relation to whom a residential care subsidy or flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth—

- (a) accommodation,
- (b) personal care or nursing care.

student means a person undertaking a clinical placement or work experience, however described, at a residential aged care facility.

the Act means the *Public Health Act 2010*.

vaccination evidence means evidence from the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* of the Commonwealth that the worker has had 1 or more doses of a COVID-19 vaccine.

Example— An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

- (2) Notes included in this Order do not form part of this Order.

4 Grounds for concluding that there is a risk to public health

It is noted that the basis for concluding that a situation has arisen that is, or is likely to be, a risk to public health is as follows—

- (a) public health authorities both internationally and in Australia have been monitoring and responding to outbreaks of COVID-19, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have recently been confirmed in New South Wales and other Australian jurisdictions, and there is an ongoing risk of continuing introduction or transmission of the virus in New South Wales, including by means of community transmission,
- (d) the risk of transmission, including by means of community transmission, of COVID-19 in New South Wales will remain significant and ongoing unless more COVID-19 vaccines are administered.

5 Direction—unvaccinated workers not to enter residential aged care facilities

- (1) The Minister directs that the following persons must not enter or remain on the premises of a residential aged care facility unless the person has received at least 1 dose of a COVID-19 vaccine—
 - (a) an employee of the operator of the facility,
 - (b) a person who provides services for the facility or for 1 or more residents of the facility under a contract or arrangement with any person, but not including the following—
 - (i) a maintenance contractor,
 - (ii) a person who provides services to a resident of the facility under a contract or arrangement with the resident,
 - (iii) a student.

Note— This direction has effect from the commencement of the Order at 9am on 17 September 2021.

- (2) Subclause (1) does not apply to a person who enters a residential aged care facility to respond to—
 - (a) a medical emergency, or
 - (b) a non-medical emergency, for example, a fire, flooding or a gas leak.

6 Direction—unvaccinated health practitioners and students not to enter residential aged care facilities

- (1) The Minister directs that after 9am on 31 October 2021 the following persons must not enter or remain on the premises of a residential aged care facility unless the person has received at least 1 dose of a COVID-19 vaccine—
 - (a) health practitioners,
 - (b) students.

Note— A person who is vaccinated to comply with the direction under clause 5 complies with this direction.

- (2) Subclause (1) does not apply to a health practitioner who enters a residential aged care facility to respond to a medical emergency.

- (3) To avoid doubt, this clause does not effect the requirement for a person to be vaccinated under clause 5.

7 Directions—evidence of vaccination

- (1) The Minister directs that the operator of a residential aged care facility must take all reasonable steps to ensure that a person subject to a direction under clause 5 or clause 6 complies with the direction.
- (2) The Minister directs that a person subject to a direction under clause 5 or clause 6 must, if required to do so by the operator of a residential aged care facility, provide the operator with vaccination evidence.

8 Exemptions

- (1) Clauses 5, 6 and 7(2) do not apply to a person who—
- (a) is unable, due to a medical contraindication, to be vaccinated against COVID-19, and
 - (b) presents to the operator of the residential aged care facility a certificate, in the form approved by the Chief Health Officer, issued by a medical practitioner, specifying the medical contraindication that makes the person unable to be vaccinated.
- (2) The Minister may, in writing and subject to conditions the Minister considers appropriate, exempt a person from the operation of this Order if the Minister is satisfied it is necessary to protect the health and well-being of the residents of a residential aged care facility.



AHPPC STATEMENT: MANDATORY VACCINATION OF ALL WORKERS IN HEALTH CARE SETTINGS

AHPPC recommends mandatory vaccinations for all workers in health care settings as a condition of work. Further, AHPPC recommends the first dose of a TGA approved COVID-19 vaccine by **15 October 2021 and a second dose by 21 January 2022.**

AHPPC also recommends that all jurisdictions accept a national definition of health-care settings in their relevant legislation to ensure consistency. This national definition will include:

- Public health settings including public hospitals, public health clinics, ambulance services, patient transport services, and other health services managed by a jurisdiction.
- Private health facilities, such as private hospitals or day procedure centres, or specialist outpatient services.
- Private provider facilities, such as general practitioners, private nurse offices and consulting offices.
- Education settings that manage health care student placements, registration, and/or internships in clinical settings.

These settings are intended to capture all health professions, including:

- those in the National Registration and Accreditation Scheme,
- all self-regulated allied health professions as published on the Australian Government Department of Health website¹, and
- all other individuals who work in these settings.

AHPPC recommends an exemption for contractors is when they are responding to an emergency. In these cases, AHPPC recommends putting risk mitigation strategies in place to ensure unvaccinated contractors abide by COVID-safe practices.

A substantial health workforce has been necessary to roll out testing, training, vaccination, quarantine, and treatment of COVID-19 patients in the public and private health sectors. Hospitals and health services have been particularly vulnerable to outbreaks resulting in transmission risk in the hospital to staff and patients. This includes the furlough of staff and reduction in health system capacity. Although identified as a priority group for vaccination, there are still workers in health care settings who are unvaccinated.

Vaccination of persons entering health care settings is an important mechanism to protect the public, staff, and patients in these settings. AHPPC has consistently noted that vaccinated individuals are less likely to be significant drivers of spread, and that unvaccinated people dominate community transmission. AHPPC also notes increased rates of community transmission, with the Delta variant

¹ <https://www.health.gov.au/health-topics/allied-health/about>

present in Australia. This poses an increased risk of exposure to both staff and patients in health care settings.

AHPPC notes that mandating vaccination for this cohort could have unintended consequences, including on the availability of the workforce. This could place increased pressure on a jurisdiction's capacity to meet demand. However, the benefits of a highly vaccinated workforce will ensure minimal transmission in healthcare settings and minimise the need to quarantine and furlough staff.

From: Coleman, Kerryn (Health)
Sent: Monday, 27 September 2021 11:45 AM
To: Ryan, Liam (Health); ACT Health Office of the Chief Health Officer; Connell, Patrick (Health)
Subject: FW: ACTION : Agenda and Paper, Monday 27 September 2021, commencing at 12:30 PM AEST [SEC=OFFICIAL]
Attachments: Agenda Item 4 - Mandated Vaccinations for HCW and DSW final.docx; Agenda Item 4 - Attachment A - Mandatory vaccination for HCW and DSW Draft Statement.docx;

From: AHPPC Secretariat [REDACTED]
Sent: Monday, September 27, 2021 11:42:19 AM (UTC+10:00) Canberra, Melbourne, Sydney
To: [REDACTED]

[REDACTED] Coleman,
 Kerryn (Health) <Kerryn.Coleman@act.gov.au>;

[REDACTED] Johnston, Vanessa (Health) <Vanessa.Johnston@act.gov.au>;

Subject: ACTION : Agenda and Paper, Monday 27 September 2021, commencing at 12:30 PM AEST [SEC=OFFICIAL]

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COMMITTEE-IN-CONFIDENCE

Please see the agenda for the AHPPC meeting on Monday 27 September 2021 commencing at 12:30 AEST
 Please find below the details to join the meeting via Webex.

Agenda	Item	Speaker/s
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4 Paper	Mandatory Vaccinations for Healthcare workers and care workers	Prof Alison McMillan
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When it's time, join your Webex meeting here.

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Join from the meeting link

<https://health-au.webex.com/health-au/j.php?MTID=m371231ecd1be66af2954df8d2eb90901>

Join by meeting number

Meeting number (access code): 2653 700 7661

Meeting password: gpPeu63ymH8

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Join by phone

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[Global call-in numbers](#)

Join from a video system or application

Dial 26537007661@health-au.webex.com

You can also dial 210.4.202.4 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial 26537007661.health-au@lync.webex.com

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Kind regards



Australian Health Protection Principal Committee (AHPPC)

Office of Health Protection | Australian Government Department of Health

T: [REDACTED] | E: [REDACTED]

A: MDP 140, GPO Box 9848, CANBERRA ACT 2601, Australia

I acknowledge the traditional custodians of the lands and waters where we live and work, and pay my respects to elders past and present.

COMMITTEE-IN-CONFIDENCE

This email and attachment(s) contain information communicated in-confidence and may contain material that has been deliberated on or may be the subject of National Cabinet deliberations. Please consult with the Australian Health Protection Principal Committee (AHPPC) Secretariat before disclosing any part of this email or any part of the attachment(s) to any third party outside of your department or organisation.

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AHPPC STATEMENT: MANDATORY VACCINATION OF WORKERS IN HEALTH CARE SETTINGS AND DISABILITY SUPPORT WORKERS

AHPPC acknowledges the high vaccinated rates of workers in health care settings and of disability support workers.

AHPPC recommends mandatory vaccinations for all workers in publicly and privately run health care settings managed under state and territory regulations. Further, AHPPC recommends the first dose of a TGA approved COVID-19 vaccine by 15 October 2021 and a second dose by 12 November 2021.

AHPPC recommends mandatory vaccinations for disability support workers engaged by registered National Disability Insurance Scheme (NDIS) providers delivering intensive supports to NDIS clients. Further, AHPPC recommends the first dose of a TGA approved COVID-19 vaccine by XX and a second dose by XX.

AHPPC recommends an exemption for contractors is when they are responding to an emergency. In these cases, AHPPC recommends putting risk mitigation strategies in place to ensure unvaccinated contractors abide by COVID-safe practices.

Hospitals and health services have been particularly vulnerable to outbreaks resulting in transmission risk in the hospital to staff and patients. This includes the furlough of staff and reduction in health system capacity. Although identified as a priority group for vaccination, there are still workers in these settings who are unvaccinated.

Vaccination of persons entering publicly and privately run health care settings managed under state and territory regulations is an important mechanism to protect the public, staff, and patients. AHPPC has consistently noted that vaccinated individuals are less likely to be significant drivers of spread, and that unvaccinated people dominate community transmission.

People with disability are vulnerable to COVID-19 transmission. Vaccinating disability support workers who provide intensive support for clients of the National Disability Insurance Scheme (NDIS) will ensure care recipients and workers who are at greatest risk of transmission are protected.

Compliance with mandatory vaccination requirements in health care settings is the responsibility of the issuing jurisdiction, managed according to the mechanism used, whether through public health order, legislation or other mechanism. Compliance with mandatory vaccination requirements of disability support workers is the shared responsibility of the issuing jurisdiction and the NDIS Commission.

AHPPC notes that mandating vaccination for these cohorts could have unintended consequences, including on the availability of the workforce. This could place increased pressure on employers' capacity to meet demand. However, the benefits of a highly vaccinated workforce will ensure minimal transmission and minimise the need to quarantine and furlough staff.

- This item will be considered by National Cabinet on Friday 1 October.

Kind regards,



Australian Health Protection Principal Committee (AHPPC)
of the Australian Health Ministers' Advisory Council (AHMAC)

Office of Health Protection | Australian Government Department of Health

T: [REDACTED] | E: [REDACTED]

A: MDP 140, GPO Box 9848, CANBERRA ACT 2601, Australia

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AHPPC STATEMENT: MANDATORY VACCINATION OF ALL WORKERS IN HEALTH CARE SETTINGS

AHPPC recommends mandatory vaccinations for all workers in health care settings as a condition of work. Further, AHPPC recommends the first dose of a TGA approved COVID-19 vaccine by 15 October 2021 and a second dose by 12 November 2021.

AHPPC also recommends that all jurisdictions accept a national definition of health-care settings in their relevant legislation to ensure consistency. This national definition will include:

- Public health settings including public hospitals, public health clinics, ambulance services, patient transport services, correctional health facilities and other health services managed by a jurisdiction.
- Private health facilities, such as private hospitals or day procedure centres, or specialist outpatient services.
- Private provider facilities, such as general practitioners, private nurse offices and consulting offices, pharmacies and private pathology centres.
- Education settings that manage health care student placements, registration, and/or internships in clinical settings.

These settings are intended to capture all health professions, including:

- those in the National Registration and Accreditation Scheme,
- all self-regulated allied health professions as published on the Australian Government Department of Health website¹, and
- all other individuals who work in these settings.

AHPPC notes the regulatory mechanism with which to mandate health-care settings may vary in the jurisdictions.

AHPPC recommends an exemption for contractors is when they are responding to an emergency. In these cases, AHPPC recommends putting risk mitigation strategies in place to ensure unvaccinated contractors abide by COVID-safe practices.

A substantial health workforce has been necessary to roll out testing, training, vaccination, quarantine, and treatment of COVID-19 patients in the public and private health sectors. Hospitals and health services have been particularly vulnerable to outbreaks resulting in transmission risk in the hospital to staff and patients. This includes the furlough of staff and reduction in health system capacity. Although identified as a priority group for vaccination, there are still workers in health care settings who are unvaccinated.

¹ <https://www.health.gov.au/health-topics/allied-health/about>

Vaccination of persons entering health care settings is an important mechanism to protect the public, staff, and patients in these settings. AHPPC has consistently noted that vaccinated individuals are less likely to be significant drivers of spread, and that unvaccinated people dominate community transmission. AHPPC also notes increased rates of community transmission, with the Delta variant present in Australia. This poses an increased risk of exposure to both staff and patients in health care settings.

AHPPC notes that mandating vaccination for this cohort could have unintended consequences, including on the availability of the workforce. This could place increased pressure on a jurisdiction's capacity to meet demand. However, the benefits of a highly vaccinated workforce will ensure minimal transmission in healthcare settings and minimise the need to quarantine and furlough staff.

AHPPC recognises that not all facilities are capable of being monitored for compliance with the proposed vaccine mandates. However, it is considered that these mandates will assist employers in these settings better manage vaccination requirements for employees.

I acknowledge the traditional custodians of the lands and waters where we live and work, and pay my respects to elders past and present.

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AHPPC STATEMENT: MANDATORY VACCINATION OF ALL WORKERS IN HEALTH CARE SETTINGS

AHPPC recommends mandatory vaccinations for all workers in health care settings as a condition of work. Further, AHPPC recommends the first dose of a TGA approved COVID-19 vaccine by **30 October 2021 and a second dose by 15 December 2021.**

AHPPC also recommends that all jurisdictions accept a national definition of health-care settings in their relevant legislation to ensure consistency. This national definition will include:

- Public health settings including public hospitals, public health clinics, ambulance services, patient transport services, correctional health facilities and other health services managed by a jurisdiction.
- Private health facilities, such as private hospitals or day procedure centres, or specialist outpatient services.
- Private provider facilities, such as general practitioners, private nurse offices and consulting offices, pharmacies and private pathology centres.
- Education settings that manage health care student placements, registration, and/or internships in clinical settings.
- **Department of Defence health settings including Garrison health centres, deployed and exercise health support and clinical health training settings.**

These settings are intended to capture all health professions, including:

- those in the National Registration and Accreditation Scheme,
- all self-regulated allied health professions as published on the Australian Government Department of Health website¹, and
- all other individuals who work in these settings.

AHPPC notes the regulatory mechanism with which to mandate health-care settings may vary in the jurisdictions **Noting the scope of health care settings in this Statement, jurisdictions may need to implement a staged approach to mandating vaccination for health care workers.**

AHPPC notes that Defence manages vaccination requirements for Defence members and employees internally due to the unique operating environments.

AHPPC recommends an exemption for contractors is when they are responding to an emergency. In these cases, AHPPC recommends putting risk mitigation strategies in place to ensure unvaccinated contractors abide by COVID-safe practices.

¹ <https://www.health.gov.au/health-topics/allied-health/about>

A substantial health workforce has been necessary to roll out testing, training, vaccination, quarantine, and treatment of COVID-19 patients in the public and private health sectors. Hospitals and health services have been particularly vulnerable to outbreaks resulting in transmission risk in the hospital to staff and patients. This includes the furlough of staff and reduction in health system capacity. Although identified as a priority group for vaccination, there are still workers in health care settings who are unvaccinated.

Vaccination of persons entering health care settings is an important mechanism to protect the public, staff, and patients in these settings. AHPPC has consistently noted that vaccinated individuals are less likely to be significant drivers of spread, and that unvaccinated people dominate community transmission. AHPPC also notes increased rates of community transmission, with the Delta variant present in Australia. This poses an increased risk of exposure to both staff and patients in health care settings.

AHPPC notes that mandating vaccination for this cohort could have unintended consequences, including on the availability of the workforce. This could place increased pressure on a jurisdiction's capacity to meet demand. However, the benefits of a highly vaccinated workforce will ensure minimal transmission in healthcare settings and minimise the need to quarantine and furlough staff.

AHPPC recognises that not all facilities are capable of being monitored for compliance with the proposed vaccine mandates. However, it is considered that these mandates will assist employers in these settings better manage vaccination requirements for employees.