



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 (original order).
As amended on 29 September 2021.

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.

Editorial note

This is the order as amended by the *Public Health (COVID-19 Vaccination of Health Care Workers) Amendment Order 2021*.

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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,
 - (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)*.

health service has the same meaning as in the *Health Services Act 1997*.

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*.

public health organisation has the same meaning as in the *Health Services Act 1997*.

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.
- (1A) Subclause (1) does not apply in relation to work done for a public health organisation, the Health Administration Corporation, the Ambulance Service of NSW or the Ministry of Health under a contract of service or a contract for services if—
 - (a) the work does not involve the provision of a health service, and
 - (b) the person doing the work is not physically present, while doing the work, at premises operated by the public health organisation, Health Administration Corporation, Ambulance Service of NSW or Ministry of Health.
- (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.