



New South Wales

# Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021

under the

Public Health Act 2010

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

Dated 23 December 2021.  
Time 4:25pm

BRAD HAZZARD, MP  
Minister for Health

## Explanatory note

The object of this Order is to amend the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021*, the *Public Health (COVID-19 Care Services) Order (No 3) 2021*, the *Public Health (COVID-19 Vaccination of Education and Care Workers) Order (No 2) 2021* and the *Public Health (COVID-19 Vaccination of Health Care Workers) Order (No 3) 2021* concerning medical contraindication certificates.

## **Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021**

under the

Public Health Act 2010

### **1 Name of Order**

This Order is the *Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021*.

## Schedule 1 Amendment of Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021

### [1] Clause 30 COVID-19 vaccinations

Omit the definition of *medical contraindication certificate* from clause 30(7).

Insert instead—

*medical contraindication certificate* 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 cannot have any approved COVID-19 vaccine available in New South Wales,

but does not include a certificate issued by a medical practitioner—

- (c) whose registration under the *Health Practitioner Regulation National Law (NSW)* is subject to a condition relating to the issue of 1 or more types of medical certificate, including medical contraindication certificates, or
- (d) in contravention of clause 30B.

### [2] Clauses 30A–30C

Insert after clause 30—

#### 30A Invalidated medical contraindication certificates

- (1) This clause applies to a nominated person within the meaning of clause 30 (an *affected person*) if—
  - (a) the person presented a medical contraindication certificate to the person's employer under clause 30(5) or a corresponding provision of a prior Order, and
  - (b) the medical contraindication certificate was issued by a medical practitioner who subsequently becomes subject to a registration condition relating to the practitioner's ability to issue 1 or more types of medical certificates, including medical contraindication certificates.
- (2) An affected person must, on being notified by the person's employer that the person is an affected person—
  - (a) immediately cease work, and
  - (b) not resume work until the person—
    - (i) presents a new medical contraindication certificate to the person's employer, or
    - (ii) is vaccinated against COVID-19.
- (3) In this clause—

*prior Order* means the following—

  - (a) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*,
  - (b) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2021*.

**30B Issue of medical contraindication certificates**

A medical practitioner must not issue a person a medical contraindication certificate unless the medical practitioner reasonably believes that, because of a specified medical contraindication, the person cannot have any approved COVID-19 vaccine available in New South Wales.

**30C Savings**

Clause 30A, as inserted by the *Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021*, applies to a medical contraindication certificate issued before the commencement of the Order.

## Schedule 2 Amendment of Public Health (COVID-19 Care Services) Order (No 3) 2021

### [1] Clauses 11A–11C

Insert after clause 11—

#### 11A Invalidated medical contraindication certificates

- (1) This section applies to a person (an *affected person*) if—
  - (a) the person presented a medical contraindication certificate under clause 11(1)(b) or (2)(b) or a corresponding provision of a prior Order, and
  - (b) the medical contraindication certificate was issued by a medical practitioner who subsequently becomes subject to a registration condition relating to the practitioner's ability to issue 1 or more types of medical certificates, including medical contraindication certificates.
- (2) An affected person who presented a medical contraindication certificate under clause 11(1)(b) or a corresponding provision of a prior Order must—
  - (a) on being notified by a the operator of a residential care facility that the person is an affected person, immediately leave the facility, and
  - (b) not enter a residential care facility, whether it is the facility referred to in paragraph (a) or a different facility, until the person presents a new medical contraindication certificate to the operator of the facility.
- (3) An affected person who presented a medical contraindication certificate under clause 11(2)(b) or a corresponding provision of a prior Order must, on being notified by a responsible person that the person is an affected person—
  - (a) immediately cease work in aged care or disability services, and
  - (b) not do work in aged care or disability services until the person presents a new medical contraindication certificate to a responsible person.
- (4) In this clause—

*prior Order* means the following—

  - (a) the *Public Health (COVID-19 Aged Care Facilities) Order 2021*,
  - (b) the *Public Health (COVID-19 Care Services) Order 2021*,
  - (c) the *Public Health (COVID-19 Care Services) Order (No 2) 2021*.

#### 11B Issue of medical contraindication certificates

A medical practitioner must not issue a person a medical contraindication certificate unless the medical practitioner reasonably believes that, because of a specified medical contraindication, the person cannot have any approved COVID-19 vaccine available in New South Wales.

#### 11C Savings

Clause 11A, as inserted by the *Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021*, applies to a medical contraindication certificate issued before the commencement of the Order.

### [2] Schedule 1 Dictionary

Omit the definition of *medical contraindication certificate*.

Insert instead—

***medical contraindication certificate*** 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 cannot have any approved COVID-19 vaccine available in New South Wales,

but does not include a certificate issued by a medical practitioner—

- (c) whose registration under the *Health Practitioner Regulation National Law (NSW)* is subject to a condition relating to the issue of 1 or more types of medical certificate, including medical contraindication certificates, or
- (d) in contravention of clause 11B.

## Schedule 3 Amendment of Public Health (COVID-19 Vaccination of Education and Care Workers) Order (No 2) 2021

### [1] Clause 3 Definitions

Omit the definition of *medical contraindication certificate* in clause 3(1).

Insert instead—

*medical contraindication certificate*, for an education and 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 cannot have any approved COVID-19 vaccine available in New South Wales,

but does not include a certificate issued by a medical practitioner—

- (c) whose registration under the *Health Practitioner Regulation National Law (NSW)* is subject to a registration condition relating to the issue of 1 or more types of medical certificate, including medical contraindication certificates, or
- (d) in contravention of clause 6B.

### [2] Clauses 6A and 6B

Insert after clause 6—

#### 6A Invalidated medical contraindication certificates

- (1) This clause applies to a person (an *affected person*) if—
  - (a) the person presented, under clause 5(2) or 6(2) or a corresponding provision of a prior Order, vaccination evidence in the form of a medical contraindication certificate, and
  - (b) the medical contraindication certificate was issued by a medical practitioner who subsequently becomes subject to a condition relating to the practitioner's ability to issue 1 or more types of medical certificates, including medical contraindication certificates.
- (2) An affected person who presented a medical contraindication certificate under clause 5(2), or under a corresponding provision of a prior Order, must on being notified by a responsible person that the person is an affected person—
  - (a) immediately cease work as an education and care worker, and
  - (b) not do work as an education and care worker until the person presents a new medical contraindication certificate to a responsible person.
- (3) The approved provider for a family day care residence must, on becoming aware that an adult resident is an affected person—
  - (a) immediately cease delivery of education and care services to children from the family day care residence, and
  - (b) not deliver education and care services to children from the family day care residence until the resident presents a new medical contraindication certificate to the provider.
- (4) In this clause—

*prior Order* means the *Public Health (COVID-19 Vaccination of Education and Care Workers) Order 2021*.

**6B Issue of medical contraindication certificates**

A medical practitioner must not issue a person a medical contraindication certificate unless the medical practitioner reasonably believes that, because of a specified medical contraindication, the person cannot have any approved COVID-19 vaccine available in New South Wales.

**[3] Clause 9 Savings**

Insert after clause 9(2)—

- (2A) Clause 6A, as inserted by the *Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021*, applies to a medical contraindication certificate issued before the commencement of the Order.



## Schedule 4 Amendment of Public Health (COVID-19 Vaccination of Health Care Workers) Order (No 3) 2021

### [1] Clauses 10A and 10B

Insert after clause 10—

#### 10A Invalidated medical contraindication certificate

- (1) This clause applies to a health care worker (an *affected worker*) if—
  - (a) the person presented a medical contraindication certificate under clause 10(1)(b) or (2)(b) or a corresponding provision of a prior Order, and
  - (b) the medical contraindication certificate was issued by a medical practitioner who subsequently becomes subject to a registration condition relating to the practitioner's ability to issue 1 or more types of medical certificates, including medical contraindication certificates.
- (2) An affected worker must, on being notified by a responsible person that the worker is an affected worker—
  - (a) immediately cease work as a health care worker, and
  - (b) not do work as a health care worker until the worker presents a new medical contraindication certificate to a responsible person.
- (3) In this clause—

*prior Order* means the following—

  - (a) the *Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021*,
  - (b) the *Public Health (COVID-19 Vaccination of Health Care Workers) Order (No 2) 2021*.

#### 10B Issue of medical contraindication certificates

A medical practitioner must not issue a person a medical contraindication certificate unless the medical practitioner reasonably believes that, because of a specified medical contraindication, the person cannot have any approved COVID-19 vaccine available in New South Wales.

### [2] Clause 13 Savings

Insert after clause 13(2)—

- (2A) Clause 10A, as inserted by the *Public Health Amendment (COVID-19 Medical Contraindication Certificates) Order 2021*, applies to a medical contraindication certificate issued before the commencement of the Order.

### [3] Schedule 1 Dictionary

Omit the definition of *medical contraindication certificate*.

Insert instead—

*medical contraindication certificate* 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 cannot have any approved COVID-19 vaccine available in New South Wales,

but does not include a certificate issued by a medical practitioner—

- (c) whose registration under the *Health Practitioner Regulation National Law (NSW)* is subject to a registration condition relating to the issue of 1 or more types of medical certificate, including medical contraindication certificates, or
- (d) in contravention of clause 10B.