

PUBLIC HEALTH ACT 2016 (WA)

Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)

HEALTH WORKER (RESTRICTIONS ON ACCESS) DIRECTIONS (No 3)

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016 (WA)* (Act). On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

PREAMBLE

1. The purpose of these directions is to put in place some measures to address the unique risks posed by COVID-19 in health care settings in order to limit the spread of COVID-19 in Western Australia and ensure critical health care facilities are available to help manage the current public health state of emergency.

CITATION

2. These directions may be referred to as the **Health Worker (Restrictions on Access) Directions (No 3)**.

COMMENCEMENT

3. These directions come into effect upon signing.

DIRECTIONS

Access Restrictions Applying to Health Care Workers

4. Subject to paragraphs 6 and 7, a person who is a **health care worker** must not enter, or remain at:
- (a) on and from the **stage one commencement date**, a **tier one health care facility** if the person has not been **partially vaccinated** against COVID-19; and
 - (b) on and from the **stage two commencement date**:
 - i. a tier one health care facility if the person has not been **fully vaccinated** against COVID-19; or
 - ii. a **tier two health care facility** if the person has not been partially vaccinated against COVID-19; and
 - (c) on and from the **stage three commencement date**:
 - i. a tier two health care facility if the person has not been fully vaccinated against COVID-19; or
 - ii. a **tier three health care facility** if the person has not been partially vaccinated against COVID-19; and
 - (d) on and from the **stage four commencement date**, a tier three health care facility if the person has not been fully vaccinated against COVID-19,
- unless the person is present at the health care facility solely in a capacity other than as a health care worker.

Access Restrictions Applying to Health Support Workers

5. Subject to paragraphs 6 and 7, a person who is a **health support worker** must not enter, or remain at:
- (a) on and from the stage one commencement date, a tier one health care facility if the person has not been partially vaccinated against COVID-19; and
 - (b) on and from the stage two commencement date, a tier one health care facility if the person has not been fully vaccinated against COVID-19; and
 - (c) on and from the stage three commencement date:
 - i. a tier two health care facility if the person has not been partially vaccinated against COVID-19; or

- ii. a tier three health care facility if the person has not been partially vaccinated against COVID-19; and
- (d) on and from the stage four commencement date:
 - i. a tier two health care facility if the person has not been fully vaccinated against COVID-19; or
 - ii. a tier three health care facility if the person has not been fully vaccinated against COVID-19,

unless the person is present at the health care facility solely in a capacity other than as a health support worker.

General Requirements

6. Where only part of premises are being used as a health care facility, nothing in these directions prevents a health care worker or a health support worker who is not vaccinated against COVID-19 from entering or remaining upon that part of the premises which is not being used as a health care facility.
7. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a health care facility for the purposes of:
 - (a) performing a law enforcement function that cannot reasonably be performed other than by entering the health care facility; or
 - (b) performing a statutory duty arising under a written law of the Commonwealth that cannot reasonably be performed other than by entering the health care facility; or
 - (c) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth) or a right of entry permit issued by the Registrar of the Department of the Registrar Western Australian Industrial Relations Commission under the *Industrial Relations Act 1979* (WA); or
 - (d) responding to an emergency in a capacity other than as a health care worker or a health support worker; or

- (e) providing emergency care to a patient in the health care facility where the emergency care is necessary to be provided immediately and a fully vaccinated or a partially vaccinated health care worker or health support worker is not available to provide that emergency care,

and to the extent that a health care worker or a health support worker enters a health care facility for any of the purposes in paragraph (a) to (e), then the health care worker or the health support worker is deemed to be an **exempt person** at any time they enter or remain at a health care facility for that purpose irrespective of whether that person appears in Column 2 of the table in Schedule 1 or Column 2 of the table in Schedule 2.

Example: a fire fighter responding to an emergency would be a person referred to in paragraph 7(d).

- 8. A health care worker or a health support worker must produce for inspection and recording, evidence in the form approved by the **Chief Health Officer** of their vaccination status, if:
 - (a) **directed** to do so by an **emergency officer**; or
 - (b) required to do so by their employer or by the owner, occupier or person apparently in charge of a health care facility.
- 9. The employer, owner, occupier or person apparently in charge of a health care facility must:
 - (a) take all reasonable and lawful steps to collect and maintain a record of the **vaccination status** of each health care worker and health support worker of the health care facility; and
 - (b) on request, provide any record of the kind referred to in paragraph (a) that the owner, occupier or person apparently in charge of a health care facility has collected and maintained to an **emergency officer** as soon as practicable after the request is made; and
 - (c) not use or disclose any record of the kind referred to in paragraph (a) except:
 - i. as provided for in this paragraph 9; or
 - ii. as permitted or required by law, including any law of the Commonwealth; or

- iii. for the purpose of ascertaining compliance with any employer direction restricting entry to a health care facility; or
 - iv. to the extent that the person expressly provided the person's vaccination status for a purpose other these directions,
- and
- (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph (a) from:
 - i. misuse and loss; and
 - ii. unauthorised access, modification or disclosure.

DEFINITIONS

For the purposes of these directions:

- 10. **Ad hoc basis** means no more than once per week.
- 11. **Ad hoc volunteer** means a person who provides goods or services at a health care facility in a voluntary or unpaid capacity and does so on an **ad hoc basis** only.
- 12. **Ambulance officer** means a person employed or otherwise engaged, including in a voluntary capacity, by:
 - (a) St John Ambulance Western Australia Limited; or
 - (b) The Royal Flying Doctor Service of Australia; or
 - (c) Wilson Medic One; or
 - (d) National Patient Transport; or
 - (e) Serco Group Proprietary Limited; or
 - (f) Department of Fire and Emergency Services; or
 - (g) CHC Helicopters Australia; or
 - (h) any other company or entity providing similar services to those organisations, including in a regional area, and who the Chief Health Officer specifies for the purposes of this paragraph,

but only at a time when that person is providing ambulance, patient transport, rescue helicopter and related services in that capacity at a health care facility.
- 13. **Chief Health Officer** has the same meaning that it has in the Act.
- 14. **COVID Clinic** has the same meaning that it has in the Presentation for Testing Directions (No 34) or any replacement directions as amended from time to time.

15. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.
16. **Emergency officer** has the same meaning that it has in the Act.
17. **Exempt person** means, to the extent that any such person is a health care worker or health support worker:
- (a) a person who has:
 - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 8; or
 - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 8;
 - or
 - (b) a person who is deemed by paragraph 7 of these directions to be an exempt person; or
 - (c) a person of the kind set out in Column 2 of the table in Schedule 1; or
 - (d) a person of the kind set out in Column 2 of the table in Schedule 2; or
 - (e) any other person or class of persons who I, or a person authorised by me for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by me and subject to any terms and conditions specified.
18. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration
19. **Health care facility** means:
- (a) on and from the stage one commencement date, a tier one health care facility;
 - (b) on and from the stage two commencement date, a tier one health care facility and a tier two health care facility; and
 - (c) on and from the stage three commencement date, a tier one health care facility, a tier two health care facility and a tier three health care facility.
20. **Health care worker** means a person of the kind set out in Column 1 of the table in Schedule 1 other than an exempt person (even if that exempt person falls within Column 1 of the table in Schedule 1).
21. **Health service provider** has the same meaning as in the *Health Services Act 2016* (WA).

22. **Health support worker** means a person of the kind set out in Column 1 of the table in Schedule 2 other than an exempt person (even if that exempt person falls within Column 1 of the table in Schedule 2).
23. **High risk regional hospital** means:
- (a) Albany Health Campus; or
 - (b) Broome Hospital; or
 - (c) Bunbury Health Campus; or
 - (d) Esperance Hospital; or
 - (e) Geraldton Regional Hospital; or
 - (f) Hedland Health Campus; or
 - (g) Kalgoorlie Health Campus; or
 - (h) Karratha Health Campus; or
 - (i) Kununurra Health Campus.
24. **Hospital** has the same meaning that it has in the *Health Services Act 2016* (WA).
25. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
26. **Partially vaccinated** means that the person has been administered with at least one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
27. **Public health service facility** has the same meaning that it has in the *Health Services Act 2016* (WA).
28. **Premises** has the same meaning that it has in the Act.
29. **Stage four commencement date** means 12.01am on 1 January 2022.
30. **Stage one commencement date** means 12.01am on 1 October 2021.
31. **Stage three commencement date** means 12.01am on 1 December 2021.
32. **Stage two commencement date** means 12.01am on 1 November 2021.
33. **Temporary exemption** means an exemption approved by me or a person authorised by me for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval.
34. **Tier one health care facility** means:
- (a) an intensive care unit within a **hospital**; or
 - (b) a high dependency unit within a hospital; or
 - (c) a respiratory ward within a hospital; or

- (d) a ward within a **high risk regional hospital** that has one or more designated respiratory beds; or
- (e) an emergency department within a hospital; or
- (f) a **COVID clinic**; or
- (g) a COVID-19 vaccination community clinic; or
- (h) a regional COVID-19 vaccination clinic; or
- (i) any other facility that is specified to be a tier one health care facility by the Chief Health Officer in writing or any person authorised by him for that purpose.

35. **Tier three health care facility** means:

- (a) a **public health service facility** including any vehicle from which public health services are provided; or
- (b) any premises that are occupied by the Department of Health or a **health service provider**; or
- (c) any other facility that is specified to be a tier three health care facility by the Chief Health Officer in writing or any person authorised by him for that purpose.

36. **Tier two health care facility** means:

- (a) a hospital, including any ancillary facilities located within the hospital building; or
- (b) any other facility that is specified to be a tier two health care facility by the Chief Health Officer in writing or any person authorised by him for that purpose.

37. **Vaccination status** means whether a health care worker or health support worker has been partially or fully vaccinated or whether they are an exempt person.

PENALTIES

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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Dr Andrew Robertson

Emergency Officer

22 September 2021 20³⁵ hours

SCHEDULE 1

Health Care Workers

Row	Column 1	Column 2
1	A person who provides health, medical, nursing, midwifery, pathology, pharmaceutical, social work or allied health services to a patient at the health care facility (irrespective of whether those services are provided for consideration or on a voluntary basis and irrespective of whether that person is employed or engaged, including in an unpaid or voluntary basis, by the owner or operator of the health care facility or a third party who provides goods and services at the health care facility for or on behalf of the owner or operator of a health care facility or some other person, including the patient).	An ad hoc volunteer
2	A person who provides direct care to a patient at the health care facility as an Assistant in Nursing (AIN), an orderly or a hospital service assistant (HSA).	
2	A person who is a student and is on a placement at a health care facility as a formal part of their education.	
3	An ambulance officer.	

SCHEDULE 2

Health Support Workers

Row	Column 1	Column 2
1	<p>A person who provides goods or services at a health care facility, including in a voluntary or unpaid capacity, other than a person covered by Column 1 of Schedule 1 or an ad hoc volunteer including, for the avoidance of doubt:</p> <ul style="list-style-type: none"> a. a person who is employed or engaged by a third party who provides goods and services at the health care facility including a labour hire firm who provides staff to supplement the permanent workforce; b. a direct care worker, including but not limited to a personal care worker; c. an administrative staff member including but not limited to a person working in administration, management or reception services; d. an ancillary staff member including but not limited to a cleaner, a laundry staff member, a gardener, a person performing food preparation services, a security officer and a person providing maintenance services; e. a person providing lifestyle and social care, including but not 	<p>An ad hoc volunteer; or</p> <p>A person who is a patient; or</p> <p>A person who is a family member or friend of a patient; or</p> <p>A tradesperson who provides services at health care facility on an ad hoc basis only including but not limited to a drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer but not including a tradesperson who is required to come within 1.5 metres of patients at the health care facility.</p> <p>A delivery driver who provides goods at health care facility on an ad hoc basis but not including a delivery driver who is required to come within 1.5 metres of patients at the health care facility.</p> <p>Any of the following in-reach service providers or contractors, unless they are a person employed or otherwise engaged, including in a voluntary or unpaid capacity, by the owner or operator of a health care facility:</p> <ul style="list-style-type: none"> a. a pastoral care worker or clergy including a resident's personal Minister / clergy / pastoral care worker; or

	<p>limited to a person providing music or art therapy or a transport driver who transports patients of the health care facility;</p> <p>f. a person who provides commercial activities at premises that constitute a health care facility whether pursuant to any lease, licence or otherwise.</p>	<p>b. a solicitor.</p>
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