

PUBLIC HEALTH ACT 2016 (WA)

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

PRIMARY HEALTH CARE WORKER (RESTRICTIONS ON ACCESS) DIRECTIONS

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 primary health care settings in order to limit the spread of COVID-19 in Western Australia and ensure primary 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 **Primary Health Care Worker (Restrictions on Access) Directions**.

COMMENCEMENT

3. These directions come into effect upon signing.

DIRECTIONS

Access Restrictions Applying to Primary Health Care Worker

4. Subject to paragraphs 5 and 6:
 - (a) on and from 12.01 am on 1 November 2021, a person who is a **primary health care worker** must not enter, or remain at a **primary health care facility**, if the primary health care worker has not been **partially vaccinated** against COVID-19; and
 - (b) on and from 12.01 am on 1 December 2021, a person who is a primary health care worker must not enter, or remain at a primary health care facility, if the primary health care worker has not been **fully vaccinated** against COVID-19, unless the person is present at the primary health care facility solely in a capacity other than as a primary health care worker.

General Requirements

5. Where only part of **premises** are being used as a primary health care facility, nothing in these directions prevents a primary health care 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 primary health care facility.
6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a primary health care facility for the purposes of:
 - (a) performing a law enforcement function that cannot reasonably be performed other than by entering the primary 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 primary 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 primary health care worker; or
- (e) providing emergency care to a **patient** in the primary health care facility where it is necessary to provide the emergency care immediately and a fully vaccinated or a partially vaccinated primary health care worker is not available to provide that emergency care,

and to the extent that a primary health care worker enters a primary health care facility for any of the purposes in paragraph (a) to (e), then the primary health care worker is deemed to be an **exempt person** at any time they enter or remain at a primary health care facility for that purpose.

Example: a fire fighter responding to an emergency would be a person referred to in paragraph 6(d).

- 7. A primary health care worker must produce evidence in the form approved by the **Chief Health Officer** of their vaccination status for inspection, recording and retention of a copy, 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 primary health care facility.
- 8. The employer, owner, occupier or person apparently in charge of a primary health care facility must:
 - (a) take all reasonable and lawful steps to:
 - i. collect and maintain a **record** of the **vaccination status** of each primary health care worker of the primary health care facility; and
 - ii. only roster on, or otherwise permit to work in a primary health care facility, a primary health care worker who is vaccinated in accordance with these directions;
 - (b) on request, provide any record of the kind referred to in paragraph 8(a)i that the employer, owner, occupier or person apparently in charge of a primary 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 8(a)i except:

- i. as provided for in this paragraph 8; 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 primary 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 8(a)i from:
 - i. misuse and loss; and
 - ii. unauthorised access, modification or disclosure.

INTERPRETATION

9. Unless specified otherwise, any reference in these directions to any other direction made by the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

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 primary health care facility in a voluntary or unpaid capacity and does so on an **ad hoc basis** only.
12. **Allied health** means:
 - (a) Aboriginal and Torres Strait Islander health practice;
 - (b) Chinese medicine;
 - (c) chiropractic practice;
 - (d) medical radiation practice;
 - (e) occupational therapy;
 - (f) optometry;
 - (g) osteopathy;
 - (h) paramedicine;
 - (i) pharmacy;

- (j) physiotherapy;
- (k) podiatry;
- (l) psychology;
- (m) art therapy;
- (n) audiology;
- (o) dietetics;
- (p) exercise physiology;
- (q) genetic counselling;
- (r) music therapy;
- (s) orthoptics;
- (t) orthotic and prosthetic practice;
- (u) rehabilitation counselling;
- (v) social work;
- (w) sonography; or
- (x) speech pathology.

13. **Allied health professional** means a person working in an **allied health** profession.

14. **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 primary health care facility.

15. **Chief Health Officer** has the same meaning that it has in the Act.

16. **Detention centre** has the same meaning as it has in the *Young Offenders Act 1994* (WA).

17. **Detention centre clinic** means an inhouse health care centre in a **detention centre**.
18. **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.
19. **Disability support** means treatment or care provided specifically for people with a disability, whether by carers or others and includes all supports funded through the National Insurance Disability Scheme.
20. **Emergency officer** has the same meaning that it has in the Act.
21. **Exempt person** means, to the extent that any such person is a primary health care 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 7; or
 - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 7;
 - or
 - (b) a person who is deemed by paragraph 6 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) any other person or class of persons who the Chief Health Officer, or a person authorised by the Chief Health Officer 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 the Chief Health Officer and subject to any terms and conditions specified.
22. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
23. **Health clinic** means a facility at which a **health service** is provided to patients in the community.
24. **Health service** means the following services for maintaining, improving, restoring or managing a person's physical or mental health and wellbeing:
 - (a) medical;
 - (b) nursing;
 - (c) midwifery;
 - (d) dental;

- (e) allied health;
 - (f) pharmaceutical;
 - (g) human pathology;
 - (h) human medical imaging;
 - (i) preventative care, including screening services;
 - (j) occupational health;
 - (k) **disability support**;
 - (l) mental health;
 - (m) child health;
 - (n) maternity health;
 - (o) health education to patients;
 - (p) cancer support to patients with cancer or recovering from cancer; or
 - (q) drug and alcohol counselling services.
25. **General practice** means a facility at which a health service is provided to patients and is predominantly delivered by general practitioners.
26. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
27. **Mobile health vehicle** means a vehicle from which a health service is provided to patients.
28. **Patient** means a person who has been, is being, or will or may be provided with health treatment or care. **Patients** means more than one patient.
29. **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.
30. **Premises** has the same meaning that it has in the Act.
31. **Primary health care facility** means each of the following facilities:
- (a) a **general practice**;
 - (b) a **health clinic**, including but not limited to, a medical specialist operated clinic, a nurse operated clinic and an **allied health professional** operated clinic;
 - (c) a **prison clinic**;
 - (d) a **detention centre clinic**;
 - (e) premises where COVID-19 related testing or COVID-19 vaccination occurs;
 - (f) a community health centre at which a health service is provided to patients;
 - (g) an Aboriginal health service;

- (h) a **service provider** office or site;
- (i) a **mobile health vehicle**;
- (j) a pharmacy;
- (k) a human pathology centre (excluding pathology laboratories solely providing research services);
- (l) a human medical imaging centre (including nuclear medicine);
- (m) a blood donation centre;
- (n) a dental surgery or practice;
- (o) a research institute where patients attend the premises for research purposes;
- (p) any other facility that is specified to be a primary health care facility by the Chief Health Officer in writing or any person authorised by him for that purpose,

but does not include:

- (q) a health care facility defined by the Health Worker (Restrictions on Access) Directions (No 3), a residential aged care facility defined by the Residential Aged Care Facility Worker Access Directions (No 4) or a quarantine centre defined by the Access to Quarantine Centre Directions (No 2), as amended or replaced from time to time;
- (r) a private psychiatric hostel as defined in the *Private Hospitals and Health Services Act 1927* (WA);
- (s) a health clinic to the extent that it includes residential premises, at times that a health service is not being provided to a patient at the premises;
- (t) premises at which a sole primary health care worker is providing a health service solely by telehealth and there is no attendance by a patient at the premises at any time;
- (u) disability supported accommodation;
- (v) a Commonwealth Department of Defence facility providing a health service;
- (w) any other facility that is specified to not be a primary health care facility by the Chief Health Officer in writing or any person authorised by him for that purpose.

32. **Primary 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).

33. **Prison** has the meaning that it has in the *Prisons Act 1981* (WA).
34. **Prison clinic** means an inhouse health care centre in a **prison**.
35. **Record** means evidence of vaccination status in the form approved by the Chief Health Officer.
36. **Service provider** means an individual, public body, company, or association or body of persons, corporate or unincorporated, that provides a health service to patients in the community.
37. **Temporary exemption** means an exemption approved by the Chief Health Officer or a person authorised by the Chief Health Officer 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.
38. **Vaccination status** means whether a primary health care 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 October 2021 14⁴⁵ hours

SCHEDULE 1

Primary Health Care Workers

Row	Column 1	Column 2
1	A person who provides health services to a patient at a primary 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 primary health care facility or a third party who provides goods and services at the primary health care facility for or on behalf of the owner or operator of a primary health care facility or some other person, including the patient).	<p>An ad hoc volunteer.</p> <p>A person who is a patient.</p> <p>A person who is a family member or friend of a patient.</p> <p>An advocate for a patient.</p> <p>A guardian for a patient.</p> <p>An interpreter for a patient.</p> <p>In relation to a primary health care facility located at a residential premises, members of the household who reside at the premises and visitors to the premises.</p> <p>A tradesperson who provides services at the primary 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 primary health care facility.</p>
2	A person who is a student and undertakes a placement, registration or internship at a primary health care facility as a formal part of their education.	A tradesperson who is required to come within 1.5 metres of patients at the primary health care facility.
3	An ambulance officer .	A delivery driver who provides goods at the primary 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 primary health care facility.
4	<p>A person who provides goods or services at a primary health care facility, including:</p> <p style="padding-left: 40px;">a. a person who is employed or engaged by a third party who provides goods and services at the primary health care facility including a labour hire firm who</p>	

<p>provides staff to supplement the permanent workforce;</p> <ul style="list-style-type: none"> 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 limited to a transport driver who transports patients of the primary health care facility; f. a person who provides commercial activities at premises that constitute a primary health care facility whether pursuant to any lease, licence or otherwise. 	<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 primary health care facility:</p> <ul style="list-style-type: none"> a. a pastoral care worker or clergy including a patient's personal Minister / clergy / pastoral care worker; b. a solicitor; or c. an auditor.
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