

Public Health Act 1997

DIRECTION UNDER SECTION 16

(Additional vaccination requirements for workers in certain settings – No. 3)

I, MARK VEITCH, the Director of Public Health, in pursuance of section 16 of the *Public Health Act 1997* ("the Act"), in order to manage the threat to public health posed by the notifiable disease known as COVID-19 ("the disease"), direct that, commencing on 23 April 2022 –

- (a) a person is not permitted to enter, or remain on, the premises of a residential aged care facility unless the person is vaccinated against the disease as specified in paragraph (d) if the person –
 - (i) is employed, or engaged, by or on behalf of the residential aged care facility, regardless of whether consideration is paid or payable for the employment or engagement; or
 - (ii) is undertaking a clinical placement, or work experience, at the residential aged care facility; or
 - (iii) is employed, or engaged, by or on behalf of the residential aged care facility, to provide services, other than maintenance services, in respect of the residential aged care facility or one or more residents of the residential aged care facility, regardless of whether consideration is paid or payable for the employment or engagement; and

- (b) an in-home care provider is not permitted to provide in-home and community aged care services unless the in-home care provider is vaccinated against the disease as specified in paragraph (d); and

- (c) a person, who is employed or engaged to provide high intensity supports to an NDIS participant, must not provide those supports to such a participant unless the person is vaccinated against the disease as specified in paragraph (d); and

- (d) for the purposes of this direction, a person is vaccinated against the disease if –
 - (i) the person –
 - (A) has received at least one booster dose of a vaccine for the disease; or
 - (B) is not eligible, in accordance with the ATAGI recommendations, to receive a booster dose of the vaccine for the disease; or
 - (C) is eligible, in accordance with the ATAGI recommendations, to receive a booster dose of the vaccine for the disease and receives a booster dose of the vaccine for the disease within 4 weeks of becoming eligible; and
 - (ii) each dose of a vaccine for the disease received by the person has been recorded in –
 - (A) a vaccination certificate issued in respect of the person issued by the Australian Immunisation Register, operated by or on behalf of the Commonwealth Government; or
 - (B) an equivalent document issued in respect of the person from a jurisdiction outside of Australia that is recognised by the Commonwealth Government or the Director of Public Health; and
 - (iii) the person provides evidence to his or her relevant supervisor, as required under paragraph (g), of each dose of a vaccine of the disease that the person has received; and
- (e) a person to whom paragraph (a), (b) or (c) applies is not required to be vaccinated against the disease as specified in paragraph (d) if –
 - (i) the person –
 - (A) is unable to be vaccinated against the disease due to a medical contraindication; and
 - (B) holds –
 - (I) a document, in a form approved by the Director of Public Health or his or her delegate, by a medical practitioner, within the meaning of the *Acts Interpretation Act 1931*, that certifies that the person has a medical

- contraindication that prevents the person from being vaccinated; or
- (II) a medical exemption, that applies to the vaccines for the disease, that is recorded in respect of the person on the Australian Immunisation Register, operated by or on behalf of the Commonwealth Government; and
- (C) provides a copy of the document, or exemption, referred to in sub-subparagraph (B) to the relevant supervisor for the person; or
- (ii) the person –
 - (A) is fully vaccinated in respect of the disease; and
 - (B) is ineligible to receive a booster dose of a vaccine for the disease under the vaccination program recognised by the Director of Public Health or his or her delegate; and
 - (C) provides his or her relevant supervisor with evidence as to why the person is currently ineligible to receive the booster dose; and
 - (D) receives that booster dose within 4 weeks of the person becoming eligible to receive the booster dose; or
- (iii) the person –
 - (A) holds an exemption, or is a member of a class of persons specified in an exemption, from the requirement to be vaccinated against the disease; and
 - (B) provides a legible copy of the exemption to his or her relevant supervisor; or
- (iv) the person is an emergency management worker, within the meaning of the *Emergency Management Act 2006*, who is only present on the premises of the relevant location for the purpose of responding to an emergency within the meaning of that Act; and
- (f) an exemption referred to in paragraph (e)(iii) –
 - (i) may only be given by the Director of Public Health, or his or her delegate, if the Director, or delegate, is satisfied that the exemption

is necessary for the protection of the health and well-being of persons; and

- (ii) may be subject to such conditions that the Director of Public Health, or his or her delegate, considers appropriate in the circumstances; and

(g) a person to whom paragraph (a), (b) or (c) applies, other than a person to whom paragraph (e) applies, must provide one or more of the following documents to his or her relevant supervisor as soon as practicable after receiving a dose of a vaccine for the disease:

- (i) a copy, or evidence, of the person's Immunisation History Statement from the Australian Immunisation Register, operated by or on behalf of the Commonwealth Government;
- (ii) electronic evidence, of the vaccines for the disease received by the person, that has been issued by or on behalf of the Commonwealth Government or the Tasmanian Government;
- (iii) an equivalent document, or electronic evidence, from a jurisdiction outside of Australia that is recognised by the Commonwealth Government or the Director of Public Health; and

(h) a person to whom paragraph (e)(i), (ii) or (iii) applies must wear a fitted face covering while he or she is present on the premises of the relevant location for the person; and

(i) paragraph (h) does not apply in respect of the following persons:

- (i) a child who has not attained the age of 12 years;
- (ii) a person who –
 - (A) holds a medical certificate, or other documentation by a medical practitioner, within the meaning of the *Acts Interpretation Act 1931*, that certifies that the person has a physical, or mental health, illness, condition or disability that makes the wearing of a fitted face covering unsuitable; and
 - (B) produces a legible copy of the medical certificate, or other documentation, if requested to do so by his or her relevant

supervisor or by a person in authority at the relevant location for the person; or

- (iii) a person who –
 - (A) holds an exemption, or is a person within a class of persons specified in an exemption, from the requirements of paragraph (h) that is given by the Director of Public Health or his or her delegate; and
 - (B) produces a legible copy of the exemption if requested to do so by the relevant supervisor of the person or by a person in authority at the relevant location for the person; and

- (j) paragraph (h) does not apply to a person in the following circumstances if the person wears a fitted face covering as soon as is practicable after the relevant circumstances end:
 - (i) the person removes the fitted face covering to communicate with a person who is deaf, or has impaired hearing, and visibility of the mouth is essential for the communication;
 - (ii) the wearing of the fitted face covering would create a risk to the health or safety of the person;
 - (iii) the person removes the fitted face covering to enable clear enunciation, or visibility of the mouth, as part of his or her employment or training;
 - (iv) the person is orally consuming food, drink or medicine;
 - (v) the person is undergoing medical care, or treatment, that is unable to be provided while the person wears a fitted face covering;
 - (vi) the person is requested to remove the fitted face covering to ascertain or confirm the identity of the person;
 - (vii) the person may lawfully remove, or is lawfully required to remove, the fitted face covering;
 - (viii) an emergency where it is not practicable or safe to wear the fitted face covering;
 - (ix) such other circumstances that are specified in an exemption, from the requirements of paragraph (h), that is given by the Director of Public Health or his or her delegate; and

- (k) a person required to wear a fitted face covering under paragraph (h), other than a person to whom paragraph (i) applies, must carry a fitted face covering while he or she remains on the premises of the relevant location for the person; and
- (l) the relevant supervisor of a person referred to in paragraph (a), (b) or (c) must take all reasonable steps to –
 - (i) as soon as is practicable after this direction is published on the website operated by the Tasmanian Government in respect of the disease, notify the person, by 23 April 2022, that the person is required to be vaccinated against the disease as specified in paragraph (d); and
 - (ii) in the case of a person referred to in paragraph (a), ensure that the person does not enter, or remain on, the relevant location for the person, on and after 23 April 2022, if the relevant supervisor is not satisfied that the person –
 - (A) is vaccinated against the disease as specified in paragraph (d); or
 - (B) is not required, under paragraph (e), to be vaccinated against the disease; and
 - (iii) in the case of a person referred to in paragraph (b), ensure that the person does not provide in-home and community aged care services, as part of his or her employment or engagement as an in-home care provider on and after 23 April 2022, if the relevant supervisor is not satisfied that the person –
 - (A) is vaccinated against the disease as specified in paragraph (d); or
 - (B) is not required, under paragraph (e), to be vaccinated against the disease; and
 - (iv) in the case of a person referred to in paragraph (c), ensure that the person does not provide high intensity supports to an NDIS participant on and after 23 April 2022, if the relevant supervisor is not satisfied that the person –

- (A) is vaccinated against the disease as specified in paragraph (d); or
 - (B) is not required, under paragraph (e), to be vaccinated against the disease; and
- (m) the relevant supervisor of a person referred to in paragraph (a), (b) or (c) must ensure that –
 - (i) a copy, or written record, of each of the following is kept and maintained by the relevant supervisor:
 - (A) each document provided to the relevant supervisor under paragraph (e) by the person;
 - (B) each document provided to the relevant supervisor under paragraph (g) as evidence of the vaccination status of the person; and
 - (ii) if requested to do so by the Director of Public Health or his or her delegate, details of the information kept under subparagraph (i) are provided to the Director of Public Health or his or her delegate as soon as possible after the request has been made; and
- (n) the operator of a relevant location may refuse to allow a person to enter, or remain on, the premises of the relevant location if –
 - (i) the person is required, under this direction, to be vaccinated in respect of the disease before entering, or remaining on, the premises of the relevant location; and
 - (ii) the operator is not satisfied, on reasonable grounds, that the person is vaccinated in respect of the disease as required under this direction; and
- (o) in this direction –
 - (i) **ATAGI recommendations** means the *Australian Technical Advisory Group on Immunisation (ATAGI) recommendations on the use of a booster dose of COVID-19 vaccine* as published on 1 March 2022 by the Australian Technical Advisory Group on Immunisation of the Commonwealth; and

- (ii) **booster dose**, in respect of a vaccine for the disease, means a vaccine for the disease that is given to a person –
 - (A) at least 3 months after the person is fully vaccinated in respect of the disease; and
 - (B) as otherwise recommended in the ATAGI recommendations; and
- (iii) **Commonwealth funded service provider** means one of the following providers:
 - (A) an approved provider within the meaning of the meaning of the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth;
 - (B) a service provider within the meaning of the meaning of the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth; and
- (iv) **fitted face covering** means a covering, other than a shield, that fits securely around the face and is designed, or made, to be worn over the nose and mouth to provide protection against infection; and
- (v) **flexible care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth; and
- (vi) **fully vaccinated**, in respect of the disease, means that a person has received all the doses of a vaccine for the disease required to complete the primary course, or primary series or schedule, of vaccination for the vaccine, as recognised by the Therapeutic Goods Administration for that vaccine; and
- (vii) **high intensity support** means –
 - (A) one of the following supports that, if provided as part of the NDIS, requires certification under the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*:
 - (I) assistance with daily life tasks in a group or shared living arrangement;
 - (II) group and centre-based activities;
 - (III) specialised supported employment;
 - (IV) assistance with daily personal activities;

- (B) one of the following supports that, if provided as part of the NDIS, requires verification under the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*:
 - (I) community nursing care;
 - (II) therapeutic supports;
- (viii) **in-home care provider** means a person who is employed, or engaged, by a Commonwealth funded service provider to provide in-home and community aged care services; and
- (ix) **in-home and community aged care services** means the following care or services provided by, or on behalf of, a Commonwealth funded service provider:
 - (A) Commonwealth-funded aged care services, within the meaning of the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth;
 - (B) flexible care, within the meaning of the *Aged Care Act 1997* of the Commonwealth;
 - (C) home care, within the meaning of the *Aged Care Act 1997* of the Commonwealth; and
- (x) **maintenance services** includes –
 - (A) prescribed work within the meaning of the *Occupational Licensing Act 2005*; and
 - (B) gardening and other maintenance services provided in respect of the premises of a residential aged care facility; and
- (xi) **NDIS** means the National Disability Insurance Scheme, established by the *National Disability Insurance Scheme Act 2013* of the Commonwealth;
- (xii) **NDIS participant** means a participant within the meaning of the *National Disability Insurance Scheme Act 2013* of the Commonwealth;
- (xiii) **person in authority**, in relation to a relevant location, includes –
 - (A) an authorised officer within the meaning of the Act; and
 - (B) an authorised officer within the meaning of the *Emergency Management Act 2006*; and

- (C) a person employed or engaged by the relevant location for the purpose of monitoring safety and security at the relevant location; and
- (xiv) **relevant location** means –
 - (A) in the case of a person to whom paragraph (a) applies, the relevant residential aged care facility; and
 - (B) in the case of a person to whom paragraph (b) applies, the location where the in-home and community aged care services are provided by the person; and
 - (C) in the case of a person to whom paragraph (c) applies, the location where the high intensity supports are provided by the person; and
- (xv) **relevant supervisor** means –
 - (A) in relation to a person to whom paragraph (a) applies, the operator of the relevant residential aged care facility; and
 - (B) in relation to a person to whom paragraph (b) or (c) applies, the employer of the person; and
- (xvi) **resident**, of a residential aged care facility, includes a resident for the purposes of respite at that facility; and
- (xvii) **residential aged care facility** means a facility, other than a transitional care facility, at which accommodation, and personal care or nursing care or both, are provided to a person in respect of whom a residential care subsidy or a flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth; and
- (xviii) **residential care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth; and
- (xix) **Therapeutic Goods Administration** means the regulatory body known as the Therapeutic Goods Administration (TGA) that is part of the Commonwealth Government Department responsible for the *Therapeutic Goods Act 1989* of the Commonwealth; and
- (xx) **transitional care facility** means a facility that only provides short-term accommodation, and personal care or nursing care or both, to a person –

- (A) in respect of whom a residential care subsidy or a flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth; and
- (B) for a period not exceeding 12 weeks at any one time; and
- (xxi) **vaccine for the disease** includes –
 - (A) a vaccine that is registered, for use in respect of the disease, by the Therapeutic Goods Administration; and
 - (B) a vaccine that, in advice issued by the Therapeutic Goods Administration, the Therapeutic Goods Administration considers to be a “recognised vaccine” in respect of the disease; and
- (p) the *Acts Interpretation Act 1931* applies to the interpretation of this direction as if it were regulations made under the Act; and
- (q) the direction, made by me on 11 March 2022 and entitled *Additional vaccination requirements for workers in certain settings – No. 2*, is revoked.

Dated: 29 March 2022

Signed: Mark Venthr

Director of Public Health