

Directions from the Secretary, Department of Health

*Health Services Act 1988*

Section 105A

I, Euan Wallace, Secretary, Department of Health give the following directions pursuant to section 105A of the *Health Services Act 1988* (Health Services Act):

### **Preamble**

1. Health care workers are at increased risk of vaccine-preventable disease if they are not vaccinated.
2. Health care workers who are not vaccinated can also pose a risk of transmitting a disease to other health care workers and patients, particularly those who are vulnerable because of age, pregnancy, immunosuppression or chronic disease.
3. The purpose of these directions is to require the proprietor of health service establishments to ensure that health care workers whom they employ or engage are vaccinated against seasonal influenza, other than in certain limited circumstances.
4. The objectives of requiring health care services to ensure that health care workers whom they employ or engage are vaccinated against seasonal influenza are to protect the health and safety of employees, to protect the health and safety of patients and to maximise compliance with the recommended vaccination requirements.

### **Citation**

5. These Directions may be referred to as the **Mandatory Vaccination of Health Care Workers (Influenza Vaccine) Directions – Health Service Establishments**.

### **Authorising provision**

6. Section 105A(1) of the Health Services Act provides that for the purposes of protecting the health and safety of patients, I may in writing direct the proprietor of a health service establishment to require persons employed or engaged by the health service establishment to be vaccinated against, or prove immunity to, a disease.
7. One of the objectives of the Health Services Act is to ensure that health care agencies provide safe, patient-centred and appropriate health services (s. 9(a)(i)).

### **Commencement**

8. These Directions take effect on 8 April 2022.

### **Definitions**

9. **Australian Immunisation Handbook** means the latest edition of the Australian Immunisation Handbook published by the Australian Government Publishing Service.
10. **Health care workers** means a person:

- a. who is employed or otherwise engaged by a health service establishment; and
- b. whose role requires them to have direct in-person contact with patients, clients, deceased persons or body parts, blood, body substances, infectious material or surfaces or equipment that might contain any of the aforementioned, or who is required to work in a clinical area where they may be exposed to infections spread by droplets, such as influenza.

11. **Health service establishment** means a private hospital, day procedure centre, or premises at which, or from which, a prescribed health service is provided, for the purposes of the Health Services Act.

## **Directions**

### **Health care workers employed or engaged by a health service establishment on or after the date this Direction takes effect (new health care workers)**

#### **New health care worker must be vaccinated**

12. Subject to clauses 13, 14 and 15, a proprietor of a health service establishment must ensure that any new health care worker who is employed or engaged by the health service establishment is vaccinated against seasonal influenza.
13. A proprietor of a health service establishment is not required to ensure that a new health care worker is vaccinated against seasonal influenza if:
- a. the health care worker has provided acceptable evidence to the health service establishment to show that they have a medical contraindication to the administration of seasonal influenza vaccines as defined by the Australian Immunisation Handbook; and
  - b. the proprietor of the health service establishment has conducted a risk assessment and is satisfied that it is safe to permit the new health care worker to perform their role as a health care worker at the health service establishment, and has determined the basis on which it is safe for them to perform that role.

#### **Timeframe for vaccination of new health care workers**

14. A proprietor of a health service establishment must ensure that a new health care worker is vaccinated against seasonal influenza:

- a. at the time they are engaged or employed by the health service establishment, if their employment or engagement commences between May and December in any given year; or
- b. within 4 months of their engagement or employment by the health service establishment, if their employment or engagement with the health service establishment commences between January and April in any given year.

**Exceptions to the requirement to be vaccinated**

15. A proprietor of a health service establishment is not required to ensure that a new health care worker who is employed or engaged by the health service establishment is vaccinated against seasonal influenza if:
- a. the proprietor of the health service establishment has conducted a risk assessment and is satisfied that it is safe to permit the new health care worker to perform their role as a health care worker at the health service establishment, and has determined the basis on which it is safe for them to perform that role.
  - b. the proprietor of the health service establishment is satisfied that not engaging or employing the new health care worker could result in a serious risk to service delivery and patient care.

**Health care workers employed or engaged by a health service establishment prior to the date this Direction takes effect (current health care workers)**

**Current health care workers must be vaccinated**

16. The proprietor of a health service establishment must ensure that each current health care worker who is engaged or employed by the health service establishment is vaccinated against seasonal influenza by 15 August 2022, other than as provided for in clauses 17 and 18.
17. A proprietor of a health service establishment is not required to ensure that a current health care worker is vaccinated against seasonal influenza if:
- a. the person has provided acceptable evidence to the health service establishment to show that that they have a medical contraindication to the administration of seasonal influenza vaccines as defined by the Australian Immunisation Handbook; and
  - b. the health service establishment has conducted a risk assessment and is satisfied that it is safe to permit the current health care worker to perform their role as a health care worker at the health service establishment, and has determined the basis on which it is safe for them to perform that role.

### **Exceptions to the requirement to be vaccinated**

18. The proprietor of a health service establishment may grant an exemption from the requirement to be vaccinated against seasonal influenza to a current health care worker who is employed or engaged by the health service establishment if:
- a. the health service establishment has conducted a risk assessment and is satisfied that it is safe to permit the current health care worker to perform their role as a health care worker at the health service establishment, and has determined the basis on which it is safe for them to perform that role; and
  - b. the proprietor of the health service is satisfied that removing the person from their current role would result in serious risk to service delivery and patient care.

### **Requirement for annual vaccination**

19. The proprietor of a health service establishment must ensure that every health care worker who is employed or engaged by the health service receives an annual vaccination against seasonal influenza by 15 August each calendar year.

### **Evidence of vaccination status**

20. Subject to clause 21, the proprietor of a health service establishment must sight a current Immunisation History Statement from the Australian Immunisation Register for each health care worker employed or engaged by the health service establishment, in order to confirm their seasonal influenza vaccination status.
21. Where a health care worker has been vaccinated against seasonal influenza in a setting that does not directly link to the Australian Immunisation Register, such as a staff vaccination program organised by their employer, the proprietor of a health service establishment that employs or engages the health care worker may accept documented evidence provided by the organisation which administered the vaccination as evidence of the health care worker's vaccination status.
22. For the purposes of clauses 13 and 17, **acceptable evidence** that a health care worker has a medical contraindication to the administration of seasonal influenza vaccines means a written statement from a medical practitioner outlining the health care worker's contraindication to the administration of seasonal influenza vaccines (as defined by the Australian Immunisation Handbook).



**Professor Euan Wallace AM**

Secretary

Department of Health

07 April 2022