

From: Euan Wallace (Health)
Sent: Thursday, 17 March 2022 1:27 PM
To: Martin Foley (VICMIN) [REDACTED]
Cc: Lisa Calabria (VICMIN) [REDACTED]
Subject: Fw: CIC-PROTECTED: RE: OFFICIAL: Re: Request for advice

Dear Minister

Please find below (and attached) the advice you requested from the CHO regarding Pandemic Orders.

In addition, in my role as State Controller Health, I would provide advice regarding Orders related to elective surgery provision in the private sector.

Currently, the Orders require private hospitals to provide support to public hospitals for the COVID-19 response. The capacity of support is fixed to the level that was provided at 31 January 2022.

This level of fixed capacity is no longer appropriate. Indeed, the Department has been engaged with all private providers to develop additional elective surgery capacity for all categories (Cat 1, 2 and 3), whereas their support in January was limited to the more urgent categories.

I would advise that a revised Industry Obligations Order amend the requirement for private hospitals to provide capacity to public hospitals so that capacity is flexible based on need. This would maintain the facility to surge surgical capacity in the private sector, should that need arise due to increasing Covid load within the public system, while enabling the flexibility that both sectors need to best address the deferred care backlog challenging both. My advice is also summarised in the attached table.

Euan

Professor Euan M Wallace AM

Secretary

Department of Health
T [REDACTED] M [REDACTED]
[REDACTED]
www.health.vic.gov.au

Pronouns: he/him/his

OFFICIAL: Sensitive

From: Ben Cowie (Health) [REDACTED]
Sent: Thursday, 17 March 2022 12:59 PM
To: Euan Wallace (Health) [REDACTED]; Nicole Brady (Health) [REDACTED]
Cc: Brett Sutton (Health) [REDACTED]
Subject: CIC-PROTECTED: RE: OFFICIAL: Re: Request for advice

Dear Euan and Nicole,

Please find attached a table of advice for the Minister in relation to proposed changes for 18 March, which I endorse by way of response to his queries below.

I note that, as has been reported since November and more widely in recent weeks a sub-lineage of the Omicron variant – BA.2 - has been spreading across Europe.

The most recent data we have available from both wastewater testing and, as of yesterday, sequenced clinical isolates is that the majority of COVID-19 infections in Victoria are now caused by the BA.2 subvariant.

While Victoria had been experiencing a downward trend in case numbers over recent weeks, since 15 March case numbers have been rising. While caution should be exercised in interpretation, a couple of days of higher cases numbers coupled with the increasing proportion of COVID-19 representing the more infectious BA.2 subvariant may represent the early signs of an increasing trend of case numbers. The recent trends in NSW, who have had a higher proportion of BA.2 isolates in recent weeks, also suggest this concern may be warranted.

The changes to the Orders that I am advising the Minister makes on Friday are still appropriate despite this possible trend but, as always, the public health team will be closely monitoring the epidemiology over the coming days and weeks to ensure settings remain appropriate and proportionate to the risk.

With best regards,
Ben.

Professor Benjamin Cowie
Acting Chief Health Officer
Public Health & COVID-19 Response
Department of Health
m: [REDACTED] e: [REDACTED]

Please note: I work at the Department of Health on Thursdays as Acting Chief Health Officer

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From: Euan Wallace (Health) [REDACTED]
Sent: Thursday, 17 March 2022 7:14 AM
To: Martin Foley (VICMIN) [REDACTED]; Brett Sutton (Health) [REDACTED]; Ben Cowie (Health) [REDACTED]; Nicole Brady (Health) [REDACTED]
Cc: Lisa Calabria (VICMIN) [REDACTED]; Kate Grieve (DPC) [REDACTED]
Subject: OFFICIAL: Re: Request for advice

Minister

Thank you.

OFFICIAL: Sensitive

I confirm that the CHO and Department will provide advice on these issues.

euan

Professor Euan M Wallace AM

Secretary

Department of Health
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Pronouns: he/him/his

From: Martin Foley (VICMIN) [REDACTED]
Sent: Wednesday, 16 March 2022 10:43 PM
To: Brett Sutton (Health) [REDACTED]; Ben Cowie (Health) [REDACTED]; Euan Wallace (Health) [REDACTED]; Nicole Brady (Health) [REDACTED]
Cc: Lisa Calabria (VICMIN) [REDACTED]; Kate Grieve (DPC) [REDACTED]
Subject: Request for advice

Dear Brett/ Ben and DoH team

I refer to the discussions surrounding proposed changes to pandemic orders relating to

- quarantine isolation and testing systems
- Victorian border crossings
- Hospitals and care facilities
- Additional industry obligations

It is my understanding that these widely canvases matters are promised to come into effect from 18 March 2022 at 11 59 pm

In accordance with the provisions of the pandemic powers provisions of the Public Health and Well Being Act I would seek your urgent advice on these matters together with the assessment on the human rights impact on Victorians together with any other material you may believe relevant

I thank you in advance for your assistance

Yours sincerely

Martin Foley
Minister for Health

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For consideration by the Minister for Health

Proposed changes relating to Quarantine, Testing and Isolation, Victorian Border Crossing, Workplaces, and Hospitals and Care Facilities at 11.59pm on Friday 18 March

Table 1. Changes to the pandemic orders for approval by the Minister for Health (18 March 2022) based on advice from the Chief Health Officer

| Item | Theme | Issue summary | Proposed Orders change | PH Rationale for change or retaining current position |
|---------------------------------|--|---|---|--|
| Quarantine and Isolation | | | | |
| 1. | Recent confirmed case – length of re-exposure | Series of National Guidelines (SoNG) has updated their advice and moved to an eight-week period post release from isolation in which a person cannot be considered re-exposed to COVID-19. | <p><u>Pandemic (Quarantine Isolation and Testing) Order</u></p> <p>Amend the definition of a recent confirmed case so that the period a person is considered a recent confirmed case is eight weeks from time of release from self-isolation (therefore is not considered a case or close contact in that time)</p> | This change is to align current requirements with the recent update to reinfection recommendations made by the Communicable Disease Network of Australia (CDNA) whereby confirmed or probable cases who have recovered do not need to be retested or managed as a contact within 8 weeks from their release of isolation, regardless of symptoms. These revisions by CDNA are in response to a context of high case prevalence and the significant impacts previous requirements have had on communities, the testing system capacity and the public health workforce. |
| 2. | Additional Local Public Health Unit powers regarding close contacts, diagnosed persons and probable cases | <p>Close contacts</p> <p>In order to evaluate and vary isolation periods, only the Chief Health Officer (CHO), a Deputy Chief Health Officer (DCHO) or an authorised officer may vary or revoke the notice given to a close contact.</p> <p>Extending this power to a Director or Medical Lead of a designated Local Public Health Unit (LPHU) would allow greater flexibility, consideration of individual circumstances and decentralise decision making.</p> <p>Diagnosed persons and probable cases</p> | <p><u>Pandemic (Quarantine Isolation and Testing) Order</u></p> <p>Add that a Director or Medical Lead of a designated Local Public Health Unit is authorised to vary or revoke the notice given to a close contact.</p> <p>Add that the CHO, a DCHO, or LPHU Directors and Medical Leads can vary the period of self-isolation for a diagnosed person or a probable case.</p> | As LPHUs primarily manage cases and close contact, it is appropriate for the LPHUs to have the ability to vary the isolation period as required for the unique circumstances of individuals. This delegation of power will ensure that cases are managed appropriately in a timely manner. |

| Item | Theme | Issue summary | Proposed Orders change | PH Rationale for change or retaining current position |
|------------------------|---|--|---|--|
| | | <p>Persons are required to self-isolate for seven days from the date of their positive test.</p> <p>There is currently minimal flexibility with respect to these isolation timeframes which can lead to disproportionate isolation periods in the context of onset of symptoms several days prior to undertaking a test that returns a positive result.</p> | | |
| 3. | Requirement for education facility operators to collect exposed person information | <p>Education facility operators are required to collect, record and store a list of all workers identified as exposed persons.</p> <p>Remove this requirement as it overlaps with a requirement on operators to collect, record and store a list of workers who are exposed persons under the Workplace Order.</p> | <p><u>Pandemic (Quarantine Isolation and Testing) Order</u></p> <p>Remove the requirement for education facility operators to collect, record and store a list of all workers identified as exposed persons.</p> | <p>This overlaps with a requirement on operators to collect, record and store a list of workers who are exposed persons under the Workplace Order, and therefore can safely be removed.</p> <p>With a shift to operator and community led contact tracing, this record keeping requirement for education facilities is no longer required as these facilities have alternative and robust record keeping measures and systems in place as part of their day-to-day operations, to identify and notify groups of people exposed on site.</p> |
| Workplaces | | | | |
| 4. | Hospitals – entry by excluded persons | <p>Hospitals may permit certain persons to visit if the person is authorised to enter or remain at the hospital by:</p> <ol style="list-style-type: none"> 1. an officer of the hospital with the position of Executive Director of Nursing and Midwifery or equivalent; and 2. the CHO or DCHO. <p>Extending this power to a Director or Medical Lead of a designated LPHU would allow greater flexibility and decentralise decision making.</p> | <p>Visitors to Hospitals and Care Facilities Order</p> <p>Amend so the power can be exercised by:</p> <ol style="list-style-type: none"> 1. an officer of the hospital with the position of Executive Director of Nursing and Midwifery or equivalent; and 2. the CHO or DCHO; OR LPHU Directors or Medical Leads | <p>Given LPHUs primarily manage cases and close contacts as well as the strategies to control the spread of COVID-19, and as the COVID-19 response and LPHU role evolves, it is appropriate to extend the power to permit excluded persons to enter or remain at a hospital to LPHU Directors and Leads. This will support more flexible and timely decision making. LPHUs also have a significant role in collaborating with local health networks, which best places them to work with these services on permitting excluding persons.</p> |
| Care facilities | | | | |

| Item | Theme | Issue summary | Proposed Orders change | PH Rationale for change or retaining current position |
|-----------------------------|--|--|---|---|
| 5 | Care facilities – entry by excluded persons | <p>Care facilities may permit certain excluded persons to remain at a care facility if authorised by:</p> <ol style="list-style-type: none"> 1. an officer of the care facility with the position of Director of the facility or equivalent; and 2. the CHO, or a person authorised by the CHO to exercise this power of authorisation. <p>Extending this power to a Director or Medical Lead of a designated LPHU would allow greater flexibility and decentralise decision making.</p> | <p>Visitors to Hospitals and Care Facilities Order</p> <p>Amend so the power can be exercised by:</p> <ol style="list-style-type: none"> 1. an officer of the hospital with the position of Executive Director of Nursing and Midwifery or equivalent; and 2. the CHO or DCHO; OR LPHU Directors or Medical Leads | <p>Given LPHUs primarily manage cases and close contacts as well as strategies to control the spread of COVID-19, and as the COVID-19 response and LPHU role evolves, it is appropriate to extend the power to permit excluded persons to enter or remain at a care facility to LPHU Directors and Leads. This will support more flexible and timely decision making.</p> |
| International Travel | | | | |
| 6 | International aircrew Fully vaccinated and medically exempt | <p>Fully vaccinated and medically exempt international aircrew must test and self-quarantine while awaiting test results.</p> <p>Remove mandatory testing for fully vaccinated international aircrew.</p> <p>Instead, strongly recommend to test within 24 hours of arrival and must test if symptomatic within 7 days of arrival.</p> | <p>Victorian Border Crossing Order</p> <p>Remove all testing and testing related self-quarantine requirements for fully vaccinated or medically exempt international aircrew services worker.</p> <p>Replace with a strong recommendation for testing upon arrival</p> <p>If symptomatic within seven days of arrival, MUST undertake a COVID-19 test.</p> | <p>In Victoria, the epidemiological risk profile has shifted. In the setting of high vaccination coverage and sustained community transmission of COVID-19, the risk of incursion due to international aircrew is less than the risk posed by exposures in the general community. It is proportionate to remove mandatory testing and self-quarantine requirements for fully vaccinated or medically exempt aircrew service workers and replace with a strong recommendation for testing on arrival, and mandatory testing if symptoms develop. Industry will continue to support other COVIDSafe measures for aircrew.</p> |

Table 2. Changes to the pandemic orders for approval by the Minister for Health (18 March 2022) based on advice from the State Controller (Secretary of the Department of Health)

| Relevant Order | Theme | Issue summary | Proposed Orders change | PH rationale for change |
|--|--------------------------------------|--|--|--|
| Additional Industry Obligations | Elective surgery restrictions | <p>Private hospitals Private hospitals must provide support to public hospitals for the COVID-19 response – the capacity of support is set at a fixed level that was provided at 31 January 2022. Stakeholders have raised concerns this level is arbitrary and have requested flexibility.</p> | <p><u>Additional Industry Obligations Order</u> Amend the requirement for private hospitals to provide capacity to public hospitals so that capacity is flexible based on need.</p> | <p>As case numbers have declined, the capacity provided by private hospitals as at 31 January is now in excess of what public hospitals require from privates for pandemic maintenance support.</p> <p>While public hospitals do require support to reduce waiting lists, this will be done via normal commercial contracting means.</p> |

Table 3. Maintaining current existing settings to be approved by the Minister for Health based on the advice from the Chief Health Officer

| Relevant Order | Theme | Current Order restriction summary | PH Rationale for retaining current position |
|----------------------------------|---|--|---|
| All | Continue Public Health settings broadly | Retaining baseline public health settings including face mask mandates and vaccine mandates. | As community transmission continues throughout Victoria, with a stabilising of new active daily cases over the past week, it is necessary to maintain some baseline restrictions, particularly in the context of the Omicron BA.2 sub variant. These measures limit the impacts on the wider community such as provision of essential services and the health system. Measures such as face mask mandates and vaccination requirements in certain settings protect individuals, the wider community and the delivery of healthcare services and therefore remain reasonable public health measures imposed to preserve the health and safety of the community. |
| Additional Industry Obligations | Continued additional specific obligations on employers and workers in specific industries | Some higher risk industries are required to ensure that workers wear the appropriate level of personal protective equipment (PPE) or a face covering or limit worker movement across different work premises. | Retaining some baseline public health measures for essential workforces remains necessary due to the critical nature of the work that these cohorts undertake. These workforces protect vulnerable Victorians, provide essential services and deliver critical resources to the community. These workers also face an elevated level of risk of contracting the virus due to occupational exposure or due to their work with vulnerable persons, therefore warranting additional protective measures to prevent the need for testing and isolating, which not only compromise workforce health and safety, but present significant flow on effects to the community. |
| Quarantine Isolation and Testing | Continue to maintain self-isolation and self-quarantine requirements. | Diagnosed persons and probable are required to self-isolate under this Order, whilst close contacts are required to self-quarantine. | Mandatory requirements to isolate or quarantine remain a proportionate measure to ensure persons who are or may be infected with COVID-19 do not transmit the infection to others once they have been diagnosed as a case or determined to be a close contact. This helps prevent onward transmission and outbreaks controlled more rapidly. Diagnosed persons with confirmed COVID-19 should continue to have specific requirements to ensure their risk of onward transmission is minimised. Requiring close contacts to quarantine minimises the chance of a person being infectious in the community. |
| | Continue to observe testing requirements issued by the Department | Exposed persons, social contacts and symptomatic persons in the community are required to observe testing requirements issued by the Department. | Testing requirements for persons identified as being at increased risk of developing COVID-19 following known exposure is necessary to identify potential cases and inform appropriate public health responses. These testing requirements ensure that any conversion to COVID-19 infection is promptly identified and minimises the chance of a person being infectious in the community. |
| | Continue to maintain notification requirements | Immediately after choosing a premises to self-isolate at, diagnosed persons are required to notify: <ul style="list-style-type: none"> any other person residing at that premises that they have been | Diagnosed persons and probable cases should continue to be required to notify the Department of their place of self-isolation as well as any persons at this location that they have tested positive to COVID-19, to ensure these persons can take precautions to minimise risk of infection. |

| | | | |
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| | | <p>diagnosed with COVID-19 and that they have chosen to self-isolate at the premises; and</p> <ul style="list-style-type: none"> the Department of the address of the premises they have chosen to self-isolate at. <p>Immediately after choosing a premises to self-isolate at, probable cases are required to notify:</p> <ul style="list-style-type: none"> any other person residing at that premises that they have received a positive RA test result and that they have chosen to self-isolate at the premises; and the Department of the positive RA test result and address of the premises they have chosen to self-isolate at. <p>If a close contact is required to self-quarantine and during the period of self-quarantine, another person informs them that they intend to commence residing at the premises chosen by the close contact, the close contact must inform the other person of their self-quarantine.</p> | <p>Diagnosed persons and probable cases should also continue to have specific requirements to notify their work or education premises if they attended during their infectious period. Under this model, increased accountability is placed on persons who are a confirmed or probable COVID-19 case to inform workplaces and education settings they have attended during their infectious period so that these setting can more promptly instigate public health responses. This measure is also intended for organisations in the community to grow more proficient at appropriately responding to exposures and to become more aware of their responsibilities and capabilities during this evolving stage of the pandemic.</p> <p>Requiring cases to notify their contacts acknowledges a greater responsibility on individuals to manage their COVID risk, and may be considered low impost as these individuals are oftentimes best placed to directly liaise with their contacts given established relations or known contact details.</p> |
| <p>Visitors to Hospitals and Care Facilities</p> | <p>Continue to limit non-essential visits and access to hospitals and care facilities</p> | <p>Limit visitors to hospitals and care facilities and require the testing of visitors in certain circumstances</p> | <p>Key sensitive settings for which ongoing public health measures are necessary include healthcare and aged care facilities. These settings house vulnerable people for whom an incursion of COVID-19 is likely to have significant impacts on their health and wellbeing and may be at higher risk of viral transmission. These priority groups for protection include the elderly, immunocompromised individuals, Aboriginal and Torres Strait Islander peoples and those with multiple comorbidities.</p> <p>In the context of sustained community transmission, it remains a proportionate response to continue to limit the number of visitors to these sensitive settings, which reduces the number of interactions between a resident or patient and those who may be more mobile in the community. This limits the opportunities for viral transmission in a sensitive setting.</p> <p>In addition, pre-entry testing requirements for visitors to care facilities reduce the risk of viral incursion. Visitors to hospitals must be vaccinated against COVID-19 to be permitted entry, however if they are unvaccinated, they must complete and show evidence of a negative rapid antigen test result on entry and wear an N95 mask (if 18 years and over).</p> |

| | | | |
|----------------------------------|--|---|---|
| Victorian Border Crossing | Continued home quarantine for certain international arrivals | Australian-based international aircrew and international passenger arrival adolescents who are not fully vaccinated or medically exempt must complete home quarantine. | Home quarantine requirements remain a vital public health measure that protects the state from incursion of COVID-19 cases and limits the risk of incoming variants of concern. Unvaccinated international arrivals present a higher incursion of risk compared to those who are fully vaccinated. Further, with large parts of the world still unvaccinated, and major outbreaks persisting internationally, the risk of new variants emerging and entering the country remains. |
| | Testing requirements for international passengers | Victorian Border Crossing Order Fully vaccinated and medically exempt international passenger arrivals must test and self-quarantine while awaiting test results. | International passenger arrivals present a highly variable level of risk of incursion of COVID-19 into the Victorian community. These individually variable risk factors are challenging to quantify. Legislative and occupational health and safety requirements and overseas aircrew testing measures that apply to aircrew do not apply to passenger arrivals, therefore potentially leaving them at higher risk of COVID-19 infection and onward transmission. Additionally, passenger arrivals may spend more extended periods in the Victorian community than aircrew whose layover periods are often <72 hours duration, presenting more opportunities for onward transmission to occur. Testing and quarantine for international passengers remain important proportionate controls as other control measures are relaxed across settings in Victoria. |