

Directions from the Minister for Health

Mental Health Act 2014

Section 342

I, James Merlino, Minister for Mental Health give the following directions pursuant to section 342 of the *Mental Health Act 2014* (Mental Health 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 CEO of Forensicare 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 Forensicare 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 – Forensicare**.

Authorising provision

6. Section 342 of the Mental Health Act provides that I may issue a written direction to Forensicare on any matter in relation to Forensicare that I am satisfied is necessary.

Commencement

7. These Directions take effect on 6 June 2022.

Definitions

8. **Australian Immunisation Handbook** means the latest edition of the Australian Immunisation Handbook published by the Australian Government Publishing Service.
9. **Current health care worker** means a health care worker employed or engaged by Forensicare prior to the date these Directions take effect.
10. **Health care worker** means a person:

- a. who is employed or otherwise engaged by Forensicare; 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. **Forensicare** has the meaning given to “Institute” in the Mental Health Act.
12. **New health care worker** means a health care worker employed or engaged by Forensicare on or after the date these Directions take effect.

Directions

Current health care workers

Current health care workers must be vaccinated

13. Forensicare must ensure that each current health care worker who is engaged or employed by Forensicare is vaccinated against seasonal influenza by 15 August 2022, other than as provided for in clauses 14 and 15.
14. Forensicare 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 Forensicare to show that they have a medical contraindication to the administration of seasonal influenza vaccines as defined by the Australian Immunisation Handbook; and
 - b. Forensicare 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 Forensicare, and has determined the basis on which it is safe for them to perform that role.

Exemptions to the requirement to be vaccinated

15. Forensicare 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 Forensicare if:
- a. Forensicare 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 for Forensicare, and has determined the basis on which it is safe for them to perform that role; and
 - b. Forensicare is satisfied that removing the person from their current role would result in serious risk to service delivery and patient care.

New health care workers

New health care workers must be vaccinated

16. Subject to clauses 17, 18 and 19, Forensicare must ensure that any new health care worker who is employed or engaged by Forensicare is vaccinated against seasonal influenza.
17. Forensicare must ensure that a new health care worker is vaccinated against seasonal influenza:
 - a. at the time they are employed or otherwise engaged by Forensicare, 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 Forensicare, if their employment or engagement with Forensicare commences between January and April in any given year.
18. Forensicare 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 Forensicare to show that they have a medical contraindication to the administration of seasonal influenza vaccines as defined by the Australian Immunisation Handbook; and
 - b. Forensicare 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 Forensicare, and has determined the basis on which it is safe for them to perform that role.

Exemptions to the requirement to be vaccinated

19. Forensicare may grant an exemption from the requirement to be vaccinated against seasonal influenza to a new health care worker who is employed or engaged by Forensicare if:
 - a. Forensicare 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 for Forensicare, and has determined the basis on which it is safe for them to perform that role; and
 - b. Forensicare is satisfied that not engaging or employing the new health care worker could result in a serious risk to service delivery and patient care.

Requirement for annual vaccination

20. Forensicare must ensure that every health care worker who is employed or engaged by Forensicare receives an annual vaccination against seasonal influenza by 15 August each calendar year.

Evidence of vaccination status

21. Subject to clause 22, Forensicare must sight a current Immunisation History Statement from the Australian Immunisation Register for each health care worker employed or engaged by Forensicare, in order to confirm their seasonal influenza vaccination status.
22. 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, Forensicare may accept documented evidence provided by the organisation which administered the vaccination as evidence of the health care worker's vaccination status.
23. For the purposes of clauses 14 and 18, **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).

Consequences of non-compliance for health care workers

24. If, in compliance with these Directions, Forensicare requires a health care worker to be vaccinated against seasonal influenza, to show evidence of their seasonal influenza vaccination status or to show evidence that they have a medical contraindication to the administration of seasonal influenza vaccines, and the health care worker fails to comply with the requirement, Forensicare must conduct a risk assessment of the risks associated with the health care worker performing their role as a health care worker for Forensicare.
25. If, after conducting a risk assessment in accordance with clause 24, Forensicare is satisfied that the health care worker poses an unacceptable risk to other health care workers and/or patients, Forensicare may transfer the health care worker to an alternative role with Forensicare, or adopt other risk mitigation strategies to ensure Forensicare is satisfied that the level of risk is acceptable.
26. If it is not possible to transfer the health care worker to an alternative role with Forensicare or to adopt other risk mitigation strategies so that Forensicare is satisfied that the level of risk is acceptable, Forensicare may terminate the employment engagement of the health care worker in accordance with law.