

HR in Practice Service Update – Mandatory COVID-19 Vaccine for Aged Care Workers.

This HR Matters publication has been prepared in relation to the COVID-19 vaccine mandate for aged care workers. **This includes allied health professionals who work in an aged care facility.**

The mandate requires all aged care workers to receive at least one dose of the COVID-19 vaccine by 17 September 2021. For more information about the mandate, please use the following link: <https://www.health.gov.au/initiatives-and-programs/covid-19-vaccines/information-for-aged-care-providers-workers-and-residents-about-covid-19-vaccines/residential-aged-care-workers/mandatory-covid-19-vaccination-in-residential-aged-care>.

The above link also contains links to the different State/Territory public health orders. Please check this information carefully, including the public health order in your state/territory, so you understand how the mandate may apply to your workers.

If you have determined that you have workers covered by this mandate, you should work together to assist them to receive at least their first dose of the vaccine before 17 September. This may involve allowing the workers time off work to receive the vaccination.

Exemptions.

Exemptions apply in limited circumstances and will depend on the public health order in your state/territory. As it stands, exemptions are typically only on medical grounds. Temporary exemptions also apply in some states/territories. Please check the public health order in your state/territory for more information.

What happens if a worker covered by the mandate does not comply?

Unless an exemption applies, a worker covered by the mandate must comply to continue working in aged care beyond 17 September. If a worker does not comply, first check with them to ascertain whether they are planning to be vaccinated (but have not been able to yet), or if they do not plan to be vaccinated. If they do not plan to be vaccinated, and they do not have an exemption, the action taken will depend on two key factors:

- 1) Do you engage them as an employee, or contractor?
- 2) Do they perform other work (i.e., general physiotherapy, not related to aged care)?

If the worker is an employee, and they do not perform any other work for your practice (i.e., they work exclusively in aged care), you should check your operational requirements to see if they are able to perform any other work in your practice. If, however, they were engaged

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by you to exclusively perform aged care work, and this is stipulated in their employment contract, you are not obligated to find other work for the employee and it is likely that they will be deemed unable to fulfill the inherent requirements of their role. This may result in termination of employment, but please seek professional or legal advice before progressing with this.

If the employee does perform other duties for your practice (i.e., their work is split between aged care work and general physiotherapy), they are still entitled to continue performing their general physiotherapy duties. Please note, this will result in the employee working less hours, so consultation and written agreement is strongly recommended here.

If the worker is a contractor, it is recommended to check the contractor's agreement you have with the contractor in the first instance. If you solely engaged the contractor to perform aged care work, however, you may be able to terminate the contractor's agreement in accordance with the terms of that agreement. Legal advice is recommended in this situation.

Please note, we are in new territory with this mandate and information is evolving as we get closer to the date. Please regularly check the link provided at the top of this HR Matters publication and seek professional or legal advice before taking any action against a worker covered by the mandate.

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