



HR Matters: Mandatory COVID-19 Vaccine for Aged Care Workers in South Australia.

With the South Australian government now confirming that, from 17 September 2021, the COVID-19 vaccine will be mandatory for allied health workers who “who attend and provide care to residents of a residential aged care facility (RACF) whether employed or engaged by the resident, RACF or another person”, the APodA HR Advisory Service would like to alert members to the different workplace implications of this direction.

First and foremost, it is important to confirm that the mandate actually applies to particular workers in your organisation. For more information on the mandate and who it applies to, please use the following link:

<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/conditions/infectious+diseases/covid-19/response+and+restrictions/aged+care+facility+visitation+in+south+australia+-+covid-19>

Once you have confirmed that the mandate applies to your worker/s, you should work together with those workers to assist them in ensuring they are able to comply with the mandate. Specifically, they must have received at least one dose of a TGA approved COVID-19 vaccine and have evidence of a booking to receive, or have received, a second dose.

To assist your workers in complying, consider providing the following information to them about where they can receive the vaccination.

<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/conditions/infectious+diseases/covid-19/vaccine/getting+vaccinated/vaccination+hubs>

Further, you should also consider allowing them to receive the vaccine during work hours. It is also recommended to encourage any worker who may be hesitant about receiving the vaccine to speak to their GP.

Exemptions.

There are some circumstances where a worker covered by the mandate may be exempt from receiving the COVID-19 vaccine. To receive an exemption, a worker must receive evidence from a legally qualified medical professional and provide this evidence directly to the RACF in writing to the Department for Health and Wellbeing via officeforageingwell@sa.gov.au. Requests should include contact details and any information relevant to the request.

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Reasons for possible exemption are:

- the person has a medical exemption from receiving the COVID-19 vaccine or the person is pregnant; and
- the person provides the operator of the RACF a medical certificate from a legally qualified medical practitioner certifying that the person either has a medical exemption from receiving the COVID-19 vaccine on either a permanent or temporary basis, or is pregnant.

Temporary exemptions may also apply where:

- the person is not reasonably able to access a COVID-19 vaccine by 17 September 2021;
- the person's work or duties at an RACF is necessary to provide for specialist clinical care of a resident; or
- the person's work or duties at an RACF is necessary to ensure maintenance of the quality of care available to residents.

What happens if a worker who does not have an exemption refuses to comply with the mandate?

From the information provided by the SA Government so far, it appears to be the case that workers will not be able to perform work in an RACF from 17 September.

Therefore, you should first consult adequately with the worker to verify that they absolutely will not be receiving the COVID-19 vaccine. If this is the case and the worker is an employee of your organisation, consider whether they can be redeployed elsewhere in your organisation (i.e. in a capacity not involving any aged care work).

If, however, they are unable to be redeployed (e.g. no alternative position in your organisation exists), it is possible that they will be deemed unable to perform the inherent requirements of their role and termination of employment by way of incapacity may become possible. We strongly encourage members to seek legal advice in this situation.

Alternatively, it could be the case that the employee performs both aged care work and general podiatry for your organisation. In this situation, consider whether it would be viable for the employee to continue performing their general podiatry duties. This may naturally result in them working less hours (as they are no longer performing the aged care duties), so consultation and written agreement (possibly even a new employment contract) is recommended here.

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If the worker refusing to comply with the mandate is an independent contractor, it is recommended to check their contractor's agreement before taking any action. Legal advice is recommended here.

For more information about the mandate, including contact details to the relevant authorities, please use the following link:

<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/conditions/infectious+diseases/covid-19/response+and+restrictions/aged+care+facility+visitation+in+south+australia+-+covid-19>

For more information about the workplace considerations of the mandate, please contact the APodA HR Advisory Service on 1300 620 641 or hrhotline@podiatry.org.au.

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