

Public Health Act 1997

DIRECTION UNDER SECTION 16

(Residential Aged Care Facilities – No. 18)

I, SCOTT McKEOWN, the Deputy Director of Public Health, in pursuance of section 16 of the *Public Health Act 1997* ("the Act"), in order to manage the threat to public health posed by the notifiable disease known as COVID-19 ("the disease"), direct that –

- (a) subject to paragraphs (b), (c) and (d), a person must not enter, or remain on, the premises of a residential aged care facility in Tasmania unless –
 - (i) the person is a resident, or a prospective resident, of the residential aged care facility; or
 - (ii) the person is an employee or contractor of the residential aged care facility; or
 - (iii) the person's presence at the premises is for the purposes of providing goods or services in respect of the residential aged care facility, whether the goods or services are provided for consideration or on a voluntary basis; or
 - (iv) the person's presence at the premises is for the purposes of providing goods or services to a resident of the residential aged care facility, whether the goods or services are provided for consideration or on a voluntary basis; or
 - (v) the person's presence at the premises is for the purposes of receiving support or services, or participating in activities, from a business or support service operating on the premises of the residential aged care facility, whether the support, services or activities are provided for consideration or on a voluntary basis; or
 - (vi) the person's presence at the premises is for the purposes of end of life support for a resident of the residential aged care facility; or
 - (vii) the person's presence at the premises is for the purposes of a care and support visit to a resident of the residential aged care facility; or

- (viii) the person's presence at the premises is required for the purposes of emergency management or law enforcement; and
- (b) despite paragraph (a), a person referred to in paragraph (a)(ii), (iii), (iv), (v), (vi), (vii) or (viii) must not enter, or remain on, the premises of a residential aged care facility in Tasmania if –
 - (i) during the 14-day period immediately preceding the entry, the person had known contact with a person who –
 - (A) has been diagnosed with the disease; or
 - (B) is reasonably suspected of having the disease; or
 - (ii) the person has one or more clinical symptoms of the disease; or
 - (iii) the person is required to be in isolation or quarantine, in respect of the disease, under the Act or the *Emergency Management Act 2006*; and
- (c) despite paragraph (a), a person referred to in paragraph (a)(vi) or (vii) must not enter, or remain on, the premises of a residential aged care facility in Tasmania except where the person –
 - (i) is fully vaccinated in respect of the disease; or
 - (ii) has –
 - (A) undertaken a Rapid Antigen Test for the disease within the 24-hour period immediately before entering the premises; and
 - (B) received a negative test result in respect of the Rapid Antigen Test for the disease; and
 - (C) not subsequently received a positive test result from a test for the disease; or
 - (iii) has –
 - (A) undertaken a PCR test for the disease within the 72-hour period immediately before entering the premises; and
 - (B) received a negative test result in respect of the PCR test; and
 - (C) not subsequently received a positive test result from a test for the disease; and

- (d) despite paragraph (a), a person referred to in paragraph (a)(v) must not enter, or remain on, the premises of a residential aged care facility in Tasmania if –
- (i) the person is not fully vaccinated in respect of the disease; or
 - (ii) the person does not hold –
 - (A) a medical certificate or other similar document, granted by a medical practitioner within the meaning of the *Acts Interpretation Act 1931*, that certifies that the person has a medical contraindication that prevents the person from being vaccinated; or
 - (B) a medical exemption, that applies to the vaccinations for the disease, that is recorded in respect of the person on the Australian Immunisation Register, operated by or on behalf of the Commonwealth; and
- (e) paragraphs (b) and (c) do not apply in respect of a person if –
- (i) the Director of Public Health, or his or her delegate, is satisfied that the person is entering, or remaining on, the premises of the residential aged care facility for the purpose of providing end of life support for a resident; and
 - (ii) the Director of Public Health, or his or her delegate, has authorised the person to enter, or remain on, those premises for those purposes; and
 - (iii) in addition to any other legal requirements under the Act, the person complies with any additional requirements imposed on the person by the Director of Public Health, or his or her delegate, to ensure the safety of the person, the staff of the residential aged care facility and the residents at the residential aged care facility; and
- (f) paragraphs (b), (c) and (k) do not apply in respect of a person entering the premises of a residential aged care facility for the purposes of providing emergency medical treatment (including transport), emergency management or law enforcement services; and

- (g) paragraph (c) does not apply in respect of a person entering the premises of a residential aged care facility if the person is under the age of 28 days; and
- (h) paragraph (b)(i) does not apply in respect of a person entering the premises of a residential aged care facility if –
 - (i) the known contact with another person, diagnosed with the disease or reasonably suspected of having the disease, occurred as part of the person's employment; and
 - (ii) the person was wearing PPE consistent with, or at the level required by, the National Guidelines for public health units developed by the Communicable Diseases Network Australia in respect of the disease; and
 - (iii) there was no breach to the PPE during that contact with the other person; and
- (i) the operator of a residential aged care facility in Tasmania must take all reasonable steps to ensure that a person does not enter, or remain on, the premises of the residential aged care facility if the person is prohibited from doing so under paragraph (a), (b), (c) or (d); and
- (j) for the avoidance of doubt, paragraphs (b), (c) and (i) do not prevent a person who is a resident of a residential aged care facility from leaving, and returning to, the premises of the residential aged care facility; and
- (k) the operator of a residential aged care facility in Tasmania must ensure that all persons who enter, or remain on, the premises of the residential aged care facility have been screened, as directed by the Director of Public Health or his or her delegate from time to time, before the person so enters, or remains on, the premises; and
- (l) a person who enters, or remains on, the premises of a residential aged care facility must wear a fitted face covering while the person remains on the premises of that facility; and
- (m) paragraph (l) does not apply in respect of the following persons:

- (i) a resident of a residential aged care facility, while he or she is on the premises of that facility;
 - (ii) a child who has not attained the age of 12 years if it is not practicable, due to age or otherwise, for the child to wear a fitted face covering;
 - (iii) a person who –
 - (A) holds a medical certificate, or other documentation by a medical practitioner, within the meaning of the *Acts Interpretation Act 1931*, that certifies that the person has a physical, or mental health, illness, condition or disability that makes the wearing of a fitted face covering unsuitable; and
 - (B) produces a legible copy of the medical certificate, or other documentation, if requested to do so by a person in authority;
 - (iv) a person who –
 - (A) holds an exemption, or is a person within a class of persons specified in an exemption, from the requirements of paragraph (l) that is given by the Director of Public Health or his or her delegate; and
 - (B) produces a legible copy of the exemption if requested to do so by a person in authority; and
- (n) paragraph (l) does not apply to a person in the following circumstances if the person wears a fitted face covering as soon as is practicable after the relevant circumstances end:
- (i) the person removes the fitted face covering to communicate with a person who is deaf, or has impaired hearing, and visibility of the mouth is essential for the communication;
 - (ii) the wearing of the fitted face covering would create a risk to the health or safety of the person;
 - (iii) the person removes the fitted face covering to enable clear enunciation, or visibility of the mouth, as part of his or her employment or training;
 - (iv) the person is orally consuming food, drink or medicine;

- (v) the person is undergoing medical care, or treatment, that is unable to be provided while the person wears a fitted face covering;
 - (vi) the person is requested to remove the fitted face covering, by a person in authority, to ascertain or confirm the identity of the person;
 - (vii) the person may lawfully remove, or is lawfully required to remove, the fitted face covering;
 - (viii) an emergency where it is not practicable or safe to wear the fitted face covering;
 - (ix) such other circumstances that are specified in an exemption, from the requirements of paragraph (l), that is given by the Director of Public Health or his or her delegate; and
- (o) a person required to wear a fitted face covering under paragraph (l), other than a person to whom paragraph (m) applies, must carry a fitted face covering while he or she remains on the premises of a residential aged care facility; and
- (p) in this direction –
- (i) **care and support visit**, in relation to a resident at a residential aged care facility, means a visit made to the resident, for the purposes of providing care and support to the resident, in one of the following locations:
 - (A) in the resident's room, outdoors or in a specific non-communal area, as designated by the residential aged care facility;
 - (B) in a specific communal area, as designated by the residential aged care facility, if each person in that area maintains, where practicable, a distance of not less than 1.5 metres between the person and each other person in the area; and
 - (ii) **clinical symptoms of the disease** means the following symptoms:
 - (A) a temperature of 37.5°C or more;
 - (B) night sweats;
 - (C) chills;
 - (D) coughing;
 - (E) shortness of breath;

- (F) sore throat;
 - (G) loss of taste;
 - (H) loss of smell; and
- (iii) **evidence of the vaccination status**, in respect of a person, means –
- (A) a vaccination certificate in respect of the disease issued to the person by the Australian Immunisation Register, operated by or on behalf of the Commonwealth Government; or
 - (B) an equivalent document from a jurisdiction outside of Australia that is issued to the person and is recognised by the Commonwealth Government or the Director of Public Health; and
- (iv) **fitted face covering** means a covering, other than a shield, that –
- (A) fits securely around the face and is designed, or made, to be worn over the nose and mouth to provide protection against infection; and
 - (B) is designed for a single use; and
 - (C) is recognised by the Therapeutic Goods Administration, of the Commonwealth, as a medical device; and
- (v) **flexible care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth; and
- (vi) **fully vaccinated**, in respect of the disease, means a person has received all of the doses of a vaccine for the disease that is necessary for the person to be issued with evidence of the vaccination status of the person; and
- (vii) **operator**, of a residential aged care facility, means a person who owns, controls or operates the residential aged care facility; and
- (viii) **PCR test** means a nucleic acid detection test, for the genetic material of SARS-CoV-2, conducted by a laboratory with the relevant accreditation, for such a test, by the National Association of Testing Authorities; and
- (ix) **person in authority**, in relation to a residential aged care facility, includes –
- (A) an authorised officer within the meaning of the Act; and

- (B) a person nominated by the operator of the residential aged care facility as a person in authority for the purposes of this direction; and
- (x) **Rapid Antigen Test** means a test, to detect the presence of viral protein from SARS Cov-2, that –
 - (A) is intended for use primarily outside a laboratory; and
 - (B) is not based on nucleic acid detection methods such as a polymerase chain reaction; and
 - (C) is approved by the Therapeutic Goods Administration for use in Australia; and
- (xi) **resident**, of a residential aged care facility, includes a resident for the purposes of respite at that facility; and
- (xii) **residential aged care facility** means a facility at which accommodation, and personal care or nursing care or both, are provided to a person in respect of whom a residential care subsidy or a flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth; and
- (xiii) **residential care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth; and
- (xiv) **test for the disease** means a PCR test or a Rapid Antigen Test; and
- (xv) **vaccine for the disease** includes –
 - (A) a vaccine that is registered, for use in respect of the disease, by the Therapeutic Goods Administration; and
 - (B) a vaccine that, in advice issued by the Therapeutic Goods Administration, the Therapeutic Goods Administration considers to be a “recognised vaccine” in respect of the disease; and

- (q) the *Acts Interpretation Act 1931* applies to the interpretation of this direction as if it were regulations made under the Act; and

- (r) the direction, given by the Director of Public Health on 10 December 2021 and entitled *Residential Aged Care Facilities – No. 17*, is revoked.

Dated: 3/1/22

Signed: 

Deputy Director of Public Health