

**Submission
No 16**

**INQUIRY INTO WORKERS COMPENSATION
AMENDMENT BILL 2021**

Organisation: Health Services Union

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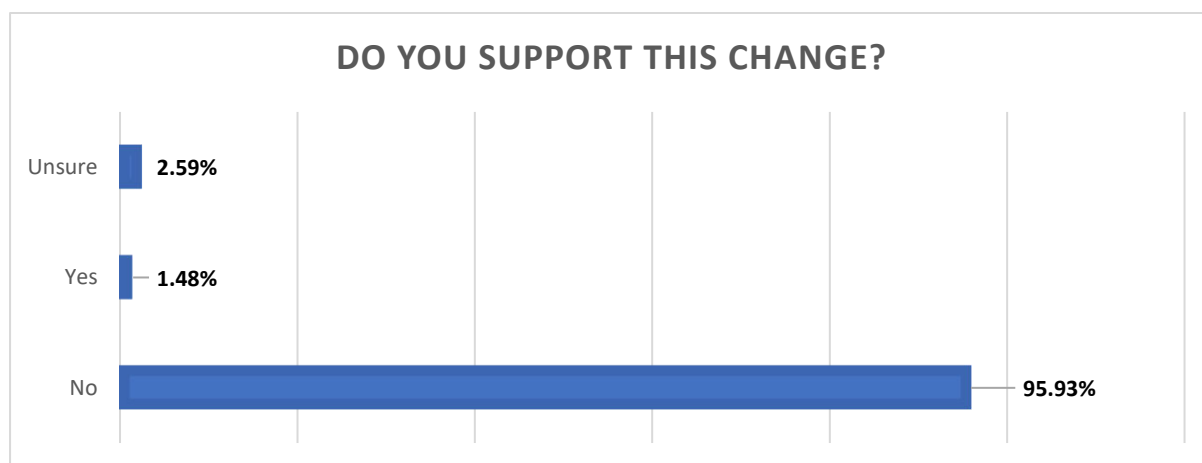
Portfolio Committee No. 1 – Inquiry into the Workers Compensation Amendment Bill 2021

The Health Services Union NSW/ACT/Qld represents some 46,000 workers in both public and private health as well as ambulance paramedics and disability and aged care workers. In the hospital system we cover all levels of support staff and health professionals, as well as junior medical officers.

HSU members continue to work on the frontline of the COVID-19 pandemic every day. While high vaccination rates have meant daily life for most people in New South Wales has returned to some semblance of normality, it is a mistake to treat the COVID-19 pandemic as coming to an end. For our healthcare workers, it certainly isn't over. Sadly, just weeks ago, a Victorian nurse passed away after having contracted the virus.¹

For the purposes of this submission, we conducted a survey of more than 1000 members from every sector of our coverage regarding their experiences and working conditions in the wake of the COVID-19 pandemic. More than half of the respondents reported having been exposed to active COVID-19 cases at work, and almost 40 per cent had had to self-isolate as a result of possible exposure. Though only a little more than 1 per cent of respondents disclosed that they themselves had tested positive for COVID-19, 37 per cent of surveyed members reported that workmates of theirs had tested positive for COVID-19.

On the question of their attitude to the proposed changes to the burden of proof in cases of COVID-19 related workers compensation claims the response was overwhelming one of opposition and, in many cases, of outrage.



¹ ABC News. 2021. 'Victoria records 918 COVID cases as union mourns Melbourne nurse who died with the virus', 30 November. URL: <https://www.abc.net.au/news/2021-11-30/victoria-records-new-covid-cases-deaths/100660460>

COVID-19 patients continue to be treated in our hospitals and in ICUs, and aged and disability care services are still on high alert for potential outbreaks. Paramedics and patient transport officers continue to face exposure in the course of their day-to-day duties serving the community. The new Omicron variant presents more challenges and uncertainties. Knowing that Workers Compensation can be smoothly accessed in the event of COVID-19 infection at work has been an important reassurance – but the Government’s proposed changes to these Workers Compensation arrangements, which place the onus on the worker to prove that they caught COVID-19 at work, are both premature and unfair, and show a patent disregard for the selfless efforts of frontline workers over the past two years.

The government has to back up all its talk about how health & aged care workers are 'heroes' with policy that takes into account that we are putting ourselves and our own families at risk to care for others.

Counsellor, Aged Care, Northern Rivers

Our healthcare workers are putting their own health and wellbeing at risk by working through this pandemic. If there is any change they may have contracted COVID in their workplace, then it should be presumed this is the case, and usual worker's compensation entitlements for a workplace injury should apply.

Administration Manager, Hawkesbury

As a disability support worker I work closely with customers who don't understand anything about the pandemic and COVID-19. We can't socially distance when our customers require support to keep safe as they don't have danger awareness and require personal care and support to do everyday things. I have worked throughout the pandemic to support our most vulnerable people and for the govt to not recognise that we have put ourselves and our families at risk and still do to support others who need it is absolutely disgraceful. Throughout most of the pandemic people with disabilities and disability support workers have been an afterthought. To take away workers compensation would be a slap in the face.

Disability Support Worker, North Coast

We are constantly putting ourselves in situations of risk so that we can care for Australians affected by this crisis. The constant danger takes a significant toll on our mental health. Worrying that we may not be able to access support if we catch COVID in the course of doing this because you cannot prove where you caught it if you come into those situations multiple times a day will create a dangerous amount of stress and make people likely to leave an already short workforce.

Radiographer, Western Sydney

NSW Ambulance has employed hundreds of paramedics on casual contracts as surge workforce during the COVID pandemic. They do not have any access to sick leave for illness or symptoms requiring work absence for COVID clearance, for isolation as a casual contact, or for actually contracting COVID. This is not only stupid, but it is disgraceful and shameful.

Paramedic, Central West Ambulance

Ready access to paid leave is essential to preventing the spread of COVID-19 in workplaces. Indeed, the World Health Organisation emphasises the importance of paid sick leave policies that are 'non-punitive, [and] not associated with any financial disincentives.'² Ensuring that no worker has to fear losing income in order to test and isolate is essential, particularly for low-paid or casual workers who might struggle to make ends meet if they miss shifts due to illness or exposure. Workers compensation for workers who contract COVID-19 at work is an important part of this, but the Government's proposed changes will create a huge barrier.

If I contract COVID at work I and most others do not have enough paid leave to cover our time off. After nearly 2 years of the constant threat of COVID what a disgraceful way to look after workers. I'm appalled at the lack of caring from both employers and government, hence I will be leaving the aged care sector shortly.

Recreational Activities Officer, Aged Care, Hunter

I worry that I will catch COVID at work and have no sick leave left to recuperate properly. We are already understaffed, worn out and fatigued and this will only make recovery from COVID harder.

Speech Pathologist, Mid North Coast

Regular workers do not have the time or resources that their employing organisations have to prove or disprove where exposure to COVID-19 has occurred. They are already fatigued and burned out from almost two years on the frontlines of the pandemic, serving their community. In any case, quizzing colleagues, clients, patients, and their families on whether they were responsible for spreading COVID-19 is uncomfortable at best and, at worst, could infringe on someone else's privacy.

Not all patients are honest when answering risk factor questions. And not all are transported where they may be tested once at hospital. Many unknown COVID status and we are high risk of exposure. Some incidents of transmission would be impossible to prove.

Paramedic, Central West Ambulance

The virus will inevitably continue to change and spread as peoples' movements become unrestricted nationally and globally. How will anyone know where they caught the virus in the same way we never really know where/who we caught a cold or flu from.

Dispatcher, Sydney Metro Ambulance

Especially when working in aged or hospital care we are at high risk of exposure on a daily basis. In ACAT we often visit highly vulnerable and unvaccinated people in the community. With impacts of cognitive decline, homelessness and other associated issues, we cannot always be sure a person is free of COVID before we visit. As someone who is personally vulnerable due to autoimmune condition, I would like to ensure i am covered if I am exposed at work but believe this should be automatic for people in our position

Occupational Therapist, Illawarra

² World Health Organisation. 2020. 'Prevention, identification and management of health worker infection in the context of COVID-19: Interim guidance'. 30 October.

It seems intuitive that workers in health care settings are far more likely to contract COVID in the workplace than elsewhere and should be afforded the benefit of the doubt in the event it occurs.

Scientific Officer, Hunter

Internationally, many countries have documented the rates of COVID-19 infection in their healthcare workforce, demonstrating the increased occupational risk of contracting COVID-19 for those workers, with the World Health Organisation recognising that health workers, especially those directly in contact with or caring for COVID-19 patients, are at a higher risk of infection than the general population.³ While Australia has not published national data on infections among the health workforce, a study of numerous public reports and media from early in the pandemic estimated that Australian health care workers had nearly three times the risk of infection than in the general community.⁴ Victorian Government data from the state's second wave in late-2020 revealed that some 70 per cent of health workers who contracted COVID-19 caught the virus through their workplace, despite the widespread community transmission at the time.⁵

As frontline health workers we are most likely to catch it in the course of our work. My work results in patients coughing, I suction them and also work directly with procedures in laryngectomy and tracheostomy patients with only general PPE.

Speech Pathologist, Mid North Coast

Hospitals aren't designed for a pandemic, I sit at a reception desk with a corridor running behind my desk, my desk is open plan to this corridor, they take all the COVID cases from ER down this corridor to ICU, high risk environment.

Administration Officer, Sydney

We transport people every day with and without COVID, it doesn't take much to get COVID from any airborne substances within our work vans, no matter how much PPE we have on. And if this does happen, we should be able to claim compensation. It's a right not a reward. We are doing a job most other people wouldn't want to do.

Patient Transport Officer, Shoalhaven

We interact with large numbers of pts / members of the public in outpatient clinics daily and in the COVID testing clinic. To have these protections removed leaves us and our families vulnerable. Who knows what strains are ahead of us. Our health and safety should be a priority.

Administration Officer, Central Coast

It would be extremely difficult to prove where the infection came from. However, for health workers the probability is so strong for the workplace as health workers try not to move about as one normally would in the community.

³ World Health Organisation. 2020. 'Prevention, identification and management of health worker infection in the context of COVID-19: Interim guidance'. 30 October.

⁴ Quigley et al. 2020. 'Estimating the burden of COVID-19 on the Australian healthcare workers and health system during the first six months of the pandemic', *International Journal of Nursing Studies*, vol. 114.

⁵ Smith 2020. 'Covid-19 in Australia: most infected health workers in Victoria's second wave acquired virus at work', *BMJ* 2020;370:m3350.

Security Officer, New England

I follow public health guidelines at work and when I am rostered off. This means wearing face masks and hand sanitising and using the QR code to check in. At work I consistently use full AGP PPE. To date, I have only been exposed to COVID AT WORK. If I were to contract it, considering my compliance, it would be from exposure to COVID patients AT WORK.

Intensive Care Paramedic, South Western Sydney Ambulance
Infection control and personal protective equipment have been a key part of protecting health workers from COVID-19 transmission at work but, due to resourcing issues, inconsistent implementation, and the high transmissibility of the virus, they are not always fully reliable. Concerningly, a quarter of surveyed HSU members described the infection control procedures in their workplace as often or always inadequate, and 15 per cent said that their access to personal protective equipment at their workplace was often or always inadequate.

Access to face shields has been intermittently available and safety glasses are too big for some staff and slip down exposing eyes. My station has not been able to get a supply of eyewear straps which hold eyewear in place.

Paramedic, Central West Ambulance

As a disability support worker I work closely with customers who don't understand anything about the pandemic and COVID-19. We can't socially distance when our customers require support to keep safe as they don't have danger awareness and require personal care and support to do everyday things

Disability Support Worker, North Coast

Single responders like me can't monitor for breach or fit-check adequately

Inspector, South Western Sydney Ambulance

When COVID first broke out we were restricted to small areas of our wings, we had no access to hand sanitiser and ran out of size L gloves so spent time trying to put on smaller gloves that would rip and leave my hands raw by the end of the day. PPE has been put in place but there is miscommunication about when to remove and how to dispose of it.

Care Worker, South Coast

Hand gel is always empty and masks are always running low and we are told to be careful with our use of them.

Administration Officer, Hunter New England

Cleaning of ambulances after transporting COVID-19 patients varies depending on the effort of the individual paramedic. Illawarra still does not have "make ready" crews.

Paramedic, Illawarra Ambulance

I've just been advised I have to collect covid travel swabs in my collection centre, but very conflicting information about infection control.

Pathology Collector, South Coast

Masks often not worn in large, shared office which also houses copier, scan and send machine. Before the lockdown last year I was pressured to see patients' family members face to face for counselling even though it was possible to use phone or Zoom. Also during lockdown earlier this year told to attend training, one to one, in a small office with no possibility for social distancing, even when I said I was sick with respiratory symptoms. Criticised and strongly pressured by my direct manager when I then then said I would not re attend this training when there were government instructions re social distancing.

Counsellor, Sydney

Of the HSU members who responded to our survey, 28 per cent of those who had to self-isolate due to COVID-19 exposure said that they received no support at all from their employer to take time off work. This was particularly pronounced in aged care, where 37 per cent reported no support at all from their employer in these circumstances.

As we have learned over the past two years of this pandemic, when it comes to COVID-19 transmission, it is essential workers who are most at risk. The Government's policy settings must provide every possible assistance for workers to vaccinate, test, and isolate as needed. In practice, this means appropriate and easily accessible provisions for paid leave and workers compensation so that workers are not forced to choose between staying home and making ends meet. Similarly, allowing workers paid time to get vaccinated is the kind of proactive and responsible measure that a government should be taking during a pandemic that places the health and safety of the community at risk. This must also extend to booster doses. Though they are yet to be mandated, the unfolding situation of rapidly increasing case numbers demands that the booster vaccination program be prioritised to ensure that the highest possible levels of protection are maintained.

While the Delta variant, the arrival of effective vaccines, and the abandonment of so-called "COVID Zero" strategies have significantly altered the situation in New South Wales, there is no publicly available research showing changes to the relative transmission risk for health and care workers at work compared to the risk of transmission out in the general community. We are also yet to see what impact, if any, the Omicron variant and waning vaccine effectiveness will have on transmission, even among fully vaccinated groups. This takes on greater importance while booster doses are not yet mandatory. At the time of writing, restrictions for the unvaccinated are easing and daily case numbers have ticked upwards of two thousand leading into Christmas.

To change the Workers Compensation arrangements introduced in response to COVID-19, while the pandemic is still ongoing, and without any evidence of a change in patterns of transmission, would therefore be a grossly premature move. Not only that, but one based on mistaken assumptions, as it emerges that the government's bid to change the legislation was based on economic modelling now shown to be outmoded and irrelevant. On 15 December, in its review of the workers compensation legislation, the NSW Legislative Council Standing Committee on Law and Justice heard from Adam Dent, chief executive officer of the State Insurance Regulatory Authority. While the transcript of this hearing is not yet available at the time of writing, the *Sydney Morning Herald* reported him testifying that, while current vaccination coverage of the adult population is 93 per cent, the estimated \$638 million cost to the workers' compensation scheme

was based on 80 per cent coverage. “It is no longer relevant,” he said. “The scenarios used are now redundant.”⁶

Low-budget, bare minimum, policy moves such as this are unacceptable when the stakes are as high as protecting the community from a pandemic. Every effort should be made to support the incomes and economic security of workers and prevent further spread occurring because people simply can’t afford to stay home. This includes making Workers Compensation as accessible as possible for workers who are placed at risk of transmission in the course of their jobs, giving them the confidence that they will be fully supported in the event that are infected with COVID-19.

Recommendation:

The Parliament should reject the Workers Compensation Amendment Bill 2021.

⁶ SMH <https://www.smh.com.au/business/workplace/bill-to-remove-covid-compensation-cover-based-on-redundant-figures-20211216-p59i6p.html> 17 December 2021