

State Insurance Regulatory Authority Workers Compensation Regulation Guideline for approval of treating allied health practitioners 2016 No 2

I, Carmel Donnelly, Executive Director, Workers and Home Building Compensation Regulation, State Insurance Regulatory Authority, authorised delegate, issue the following Guideline pursuant to section 60(2C) of the *Workers Compensation Act 1987* and section 376(1) of the *Workplace Injury Management and Workers Compensation Act 1998*.

Dated this thirty-first day of October 2016

CARMEL DONNELLY
Executive Director
Workers and Home Building Compensation Regulation
State Insurance Regulatory
Authority

1. Commencement

1.1 This Guideline commences from the date of Gazettal

2. Guideline making powers

2.1 This Guideline is made under section 60(2C)(e) of the *Workers Compensation Act 1987* (1987 Act) and section 376(1)(c) of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act).

Explanatory Note:

This Guideline outlines the appropriate qualifications or experience, and requirements for approval of specified allied health practitioners by the State Insurance Regulatory Authority (SIRA) Workers Compensation Regulation, to provide treatment or service to a worker under section 60 (2C) (e) of the 1987 Act.

Under workers compensation legislation, workers are not liable for the cost of any reasonably necessary medical or related treatment. Employers are liable for the cost of this treatment. However, employers are not liable for treatment in certain instances, including where the treatment or service provider is not appropriately qualified.

An eligible allied health practitioner can only be “appropriately qualified” if they have been approved as such in accordance with this Guideline. This means employers will not be liable under section 60(2A) for any treatment or services provided by a practitioner who is not an approved allied health practitioner under this Guideline.

2.2 This Guideline applies only to the following “eligible allied health practitioners”:

- a) accredited exercise physiologists
- b) chiropractors
- c) counsellors
- d) osteopaths
- e) physiotherapists
- f) psychologists.

- 2.3 An allied health practitioner who delivers services only in a NSW public hospital and does not work in a private capacity does not require approval as outlined in this Guideline to deliver treatment services in a NSW public hospital.
- 2.4 Allied health practitioners that practice exclusively outside of NSW and provide services in practices outside of NSW to workers in the NSW workers compensation system do not require approval as outlined in this Guideline.

However, in order to be regarded as an approved allied health practitioner for the purposes of section 60 of the 1987 Act, they must deliver their services in accordance with/under:

- o NSW workers compensation legislation,
- o SIRA procedures as described in the *NSW workers compensation guide for allied health practitioners*
- o relevant SIRA workers compensation Fees Order/s and;
- o insurances equivalent to those required for approval in NSW under this Guideline (set out in clause 4).

3. Appropriate qualifications

- 3.1 To be appropriately qualified for the purposes of section 60 of the 1987 Act to give or provide a treatment or service to a worker in NSW, the eligible allied health practitioner must:

3.1.1 be an exercise physiologist who is accredited with Exercise & Sports Science Australia (ESSA); or

3.1.2 be a chiropractor, osteopath, physiotherapist or psychologist with general registration under the *Health Practitioner Regulation National Law (NSW) No 86a* or equivalent *Health Practitioner Regulation National Law* in their jurisdiction with the Australian Health Practitioner Regulation Agency (AHPRA); or

3.1.3 be a counsellor who is a:

- a) full clinical member of The Psychotherapy and Counselling Federation of Australia; or
- b) mental health social worker accredited with the Australian Association of Social Workers; or
- c) Level 3 or 4 member of the Australian Counsellors Association.

AND must obtain, and maintain, SIRA Workers Compensation Regulation approval in accordance with the requirements set out in clause 4 and clause 5.

4. To obtain SIRA Workers Compensation Regulation approval

- 4.1 To obtain SIRA approval to provide treatment or services in the NSW workers compensation system, an eligible allied health practitioner must:

- a) complete the SIRA allied health practitioner online training program, to the standard required by SIRA, before applying for approval; and
- b) apply in writing for approval using the form supplied by SIRA or available at www.sira.nsw.gov.au, ensuring each criteria is addressed to the standard required by SIRA; and
- c) provide a signed undertaking (“the binding undertaking”) confirming agreement to the following requirements:
 - i. deliver services in accordance with:
 - workers compensation legislation,
 - SIRA procedures as described in the *NSW workers compensation guide for allied health practitioners*
 - relevant SIRA workers compensation allied health practitioner Fees Order/s.
 - ii. use and submit the Allied Health Recovery Request (AHRR) form to obtain approval from the insurer for treatment/services beyond:

- eight (8) consultations if the injury was not previously treated and treatment starts within three (3) months of the date of injury.
- three (3) consultations if the injury was not previously treated and treatment starts over three (3) months after the date of injury.
- one(1) consultation if the practitioner previously treated the injury over three months ago. This is a new episode of care.
- one (1) consultation when a worker has attended for previous treatment of the injury with a different practitioner.

If further treatment is required beyond those approved in the initial AHRR, the practitioner is required to submit additional AHRR's and they must be approved by the insurer before treatment can be delivered in each such case. Where the same practitioner is continuing treatment within three (3) months of the date of injury and the practitioner sent an AHRR to the insurer, and the insurer did not respond within five working days of receiving the AHRR, it is automatically approved.

Note: Approval can only be given for up to eight (8) consultations per AHRR. For workers receiving complex treatment (as defined in the current Workers Compensation (Physiotherapy, Chiropractic, Osteopathy Fees) Order, more than eight (8) consultations may be requested per AHRR, where prior arrangements are made with the insurer.

Note: To complete the AHRR the service provider's signature is required. The AHRR form provides for the use of digital signatures. If electronically submitted, the approved allied health practitioner must be able to demonstrate, if the need arises, that they had:

- personally emailed the completed form from the email address already provided to SIRA; or
- authorised in writing the practice with which they are engaged, to email on the practitioner's behalf, forms which have been completed and signed by the practitioner.

The submission of the AHRR is optional for practitioners treating a worker with a Severe injury (as defined in the relevant workers compensation allied health practitioner Fees Order).

- iii. adhere to industry quality standards for all practice locations.
- iv. possess and provide evidence to SIRA of a current professional indemnity insurance policy and public liability insurance policy (ensuring the amount of cover is appropriate to the scope of practice, level of risk and is inclusive of run-off cover).
- v. submit all invoices within 30 calendar days of the service provided itemised in accordance with the relevant workers compensation allied health practitioner Fees Order and the SIRA, Workers Compensation Regulation's itemised invoicing requirements as outlined in [Medical Professionals Invoicing](#).
- vi. provide and maintain an email address to be used for all written communication from SIRA Workers Compensation Regulation to the practitioner and comply with the notification requirements in clause 8.
- vii. have an active approval number listed on the SIRA Workers Compensation website.
- viii. complete any additional training, to the standard required by SIRA, within the prescribed timeframe and at the allied health practitioner's own expense.
- ix. participate in independent consultant reviews as required by SIRA, Workers Compensation Regulation.
- x. participate in SIRA initiated reviews as required by SIRA, Workers Compensation Regulation.

5. To maintain SIRA Workers Compensation approval:

An approved allied health practitioner must comply with the SIRA requirements specified in this Guideline including the binding undertaking, and acknowledge that a future breach of this undertaking may result in SIRA suspending or revoking approval. The binding undertaking is

included in the allied health practitioner application for SIRA Workers Compensation Regulation approval form.

6. Recognition of prior approval

- 6.1 All eligible allied health practitioners who possessed an active approval number listed on the SIRA Workers Compensation Regulation website on 1 January 2016 are taken to be approved allied health practitioners for the purposes of this Guideline and section 60 of the 1987 Act, with appropriate qualifications under clause 3 and approval under clause 4.
- 6.2 The approval shall be taken to have been made under this Guideline, which from 1 January 2016 applies to all allied health practitioners within the six categories listed in clause 2.2.
- 6.3 An eligible allied health practitioner who, by operation of clause 6.1, is taken to be an approved allied health practitioner, is required to comply with the requirements in the binding undertaking set out at clause 4.1(c). All other clauses of this Guideline that apply to approved allied health practitioners also apply to them.

7. Register of SIRA Workers Compensation Regulation approved allied health practitioners

- 7.1 If SIRA approves the eligible allied health practitioner, SIRA will provide an approval number.
- 7.2 By applying to SIRA for approval, the eligible allied health practitioner has consented to their name, contact details and approval number being included in the SIRA Workers Compensation Regulation register of approved allied health practitioners.
- 7.3 The SIRA Workers Compensation Regulation register of approved allied health practitioners is free and publicly available on the SIRA website at www.sira.nsw.gov.au. It is a public register as defined in section 3 of the *Privacy and Personal Information Protection Act 1998*.

8. Changes to practitioner contact details

- 8.1 An approved allied health practitioner must:
 - 8.1.1 notify SIRA Workers Compensation Regulation in writing within 14 days of any change to their name or contact details (as these appear in the public register of SIRA Workers Compensation Regulation approved allied health practitioners).
 - 8.1.2 notify SIRA Workers Compensation Regulation when their practitioner email address changes and provide an updated email address within 14 days (see clause 4.1 (c)).
- 8.2 To provide updated information an approved allied health practitioner should contact SIRA on 13 10 50, or advise the changes in writing to contact@sira.nsw.gov.au.

9. Suspension or revocation of SIRA Workers Compensation Regulation approval

- 9.1 SIRA will decline to approve, or will suspend or revoke its approval of an allied health practitioner if the practitioner's registration, accreditation or membership as a health practitioner under any relevant law is limited or subject to any condition imposed as a result of a disciplinary process, or the practitioner is suspended or disqualified from practice (section 60(2A)(d) of the 1987 Act).
- 9.2 SIRA may suspend or revoke its approval of an approved allied health practitioner if the practitioner fails to adhere to conditions of the binding undertaking.

10. Timing and notification of decision to decline to approve, or to suspend or revoke a SIRA Workers Compensation Regulation approval

- 10.1 SIRA will advise an approved allied health practitioner of any decision to decline to approve, or to suspend or revoke a SIRA Workers Compensation Regulation approval to the email address provided by the practitioner.
- 10.2 If the practitioner's registration, accreditation or membership as a health practitioner under any relevant law is limited or subject to any condition imposed as a result of a disciplinary

process, or the practitioner is suspended or disqualified from practice (section 60(2A)(d) of the 1987 Act) SIRA will suspend or revoke its approval from the date of limitation, condition, suspension or disqualification.

- 10.3 If a practitioner's approval is suspended or revoked for reasons other than those set out in clause 10.2, the suspension or revocation will take effect 28 days from when the practitioner is advised of SIRA's decision by email to the address provided by the practitioner. A suspension remains in effect until the date nominated that the suspension is to end, or the date SIRA approval is revoked, whichever is the earlier.
11. **Review of SIRA decision to not approve, or to suspend or revoke approval**
- 11.1 An eligible or approved allied health practitioner may request a review of SIRA's decision to decline to approve, or to suspend or revoke the practitioner's approval if the decision was not made as a result of the reasons listed in clause 10.2.
- 11.2 The request must be submitted in writing from the email address provided by the practitioner to SIRA, within 21 calendar days of being informed of SIRA's decision. It must outline the basis for the request to review, including any new material or supporting documentation. A request for review does not stay SIRA's decision to decline to approve, or to suspend or revoke approval.
- 11.3 SIRA may request additional information from the allied health practitioner.
- 11.4 The request will be reviewed in line with administrative law principles. The final decision and reasons for that decision will be issued to the allied health practitioner to the email address provided by the practitioner.
12. **Severability**
If any clause or subclause of this Guideline is found to be invalid or inapplicable, all other aspects of the Guideline remain in effect.