

Australian Association of Psychologists incorporated (AAPI) Submission - Draft State Insurance and Care Governance Amendment Regulation 2022

AAPi thanks SIRA for the opportunity to comment on the draft State Insurance and Care Governance Amendment Regulation 2022. We would like to take the opportunity to comment on the following areas in more detail:

### **Feedback and input on the draft regulation**

We understand the intention behind the changes to the legislation. Health services provided through the CTP and workers compensation schemes need to be provided in line with best practice and in a way that is fiscally responsible. While the intention is clear, there are significant issues that are currently present within these schemes that need to be addressed to reduce the incidence of issues.

One area that is significant and a focus of the draft legislation is billing compliance. The feedback we have received from members working within the CTP and workers compensation schemes is regarding the inadequacy of the Gazetted Fees. Billing non-compliance may be an issue due to this fee being inadequate and the need for it to be commensurate with the usual billing practices of the profession. Other schemes have much higher rates of pay for similar duties and AAPi's current recommended hourly rate for psychologists is \$280. This takes into consideration the actual costs of providing psychological services. Members of AAPi also report that there are several inefficiencies in the communication with payers, resulting in high volumes of time spent seeking treatment approvals for clients. They also report a high level of documentation required when working with clients through this scheme due to the potential for notes to be used in legal cases, the cross-sectional audience that will view the notes case and the need for notes to not be misinterpreted and have a negative impact on clients. We would encourage a review of the Gazetted Fees in light of the discrepancy between them, other funding schemes and the AAPi recommended hourly rate.

Regarding intervention when an ethical or professional standard is breached by a provider, or where SIRA believes the service provider poses a risk to injured people, or reasonably believes a direction is required, we would argue that there are already processes available to address this through the regulatory bodies of the professions that work within the schemes. Health services need to be safe and provided in line with evidence-based practice and where the standard of care falls significantly below what is expected or is harmful, the best interest of the larger public needs to be prioritised, with reports made to the regulatory bodies so that adequate investigations can be undertaken, not restricted to the schemes covered by this draft legislation.

Most of the steps proposed that SIRA can take, before using a direction are appropriate i.e. assisting, supporting, and educating, notifying and advising, escalated notification and targeted action. We question the appropriateness of the enforcement action of publishing the providers name on the register with details regarding the direction made under s26D. We question what will be achieved by this action. Naming and shaming clinicians seems inappropriate when it would be more beneficial to the public for them to be investigated by

their regulatory body, and if deemed appropriate, be no longer able to work as a health practitioner if found to be practising at a standard that is below that expected or causing harm to the public. The financial consequences for non-compliance are also not significantly high to provide a deterrent to inappropriate practices.

### **Unintended consequences of the drafting**

At times, services can appear as though they are not providing a measurable benefit to the consumer. This may be because treatment effectiveness is being measured in a way that is inappropriate. Oftentimes, stabilisation without improvement or deterioration is considered a positive treatment outcome as is the reduction of acute emergency presentations and prevention of suicide and self-harm. It will be important to consider the metrics used to determine whether treatment is provided appropriately before sanctioning health practitioners for not providing services at the expected standard. We would recommend consultation with peak bodies such as AAPi and expert reference groups in helping to determine this.

There is a risk that client privacy of health records will be inappropriately breached by requesting practitioners supply SIRA with some claim-related data and information. We would like clarification if clinical notes are included in this. We have received reports that there is already a high volume of requests for entire clinical files which is inappropriate. There is a risk that this will increase with the introduction of this legislation. The guidelines need to specify in what cases claim-related data and information would be requested and for what purpose this is allowed.

There is a concern that treatment will be directed by SIRA through these regulations in ways that interrupt appropriate client care. Also, the ability to direct providers not to provide services may not always be in the best interest of the client. A case where services were denied for a client inappropriately was brought to the AAPi recently. This case involved the severe injury and resultant prolonged chronic complex health needs, including poor mental health, of a client. Given the clinical details and disability resulting from the accident, the level of treatment that had been provided was considered appropriate but was still denied by the insurer. There have also been reports from members of case managers stopping workers from seeing clients because they disagree with the treatment direction or the Psychologist's opinion on progress and return to work readiness. Although the intention of these changes is to provide direction when there is a significant departure from what is expected, the risk is raised that this legislation could be used to direct treatment when this is unnecessary, providing a barrier to effective treatment as we have seen in this recent case study and reports from members. The ethical guidelines psychologists are required to abide by would see them needing to disregard directions regarding treatment when the best interest of the client would be to continue treatment. Decisions regarding treatment should not be decided by insurers but by practitioners. SIRA guidelines need to significantly address the proposed treatment direction so that this is not a common occurrence and does not occur in greater numbers due to the introduction of these actions. An independent clinical review panel may be an appropriate option where providers and SIRA staff are unable to resolve a conflict regarding client care.

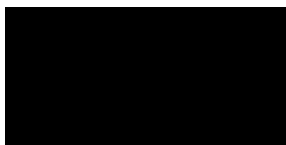
## Matters for inclusion in the guidelines

Due to the significant number of our members providing services under SIRA, AAPi would appreciate being involved in the further development of the guidelines. Issues that we believe need to be covered within the guideline include:

- Processes that will apply where there is a request for an internal review.
- Processes for appeals to NCAT
- The circumstances in which clinical files will need review and what informed consent processes from clients will need to be to allow this
- What metrics will be used to determine treatment appropriateness/benefit from treatment
- Processes around directions regarding treatment, including cessation of treatment and what the options are for independent clinical review
- At what stage/threshold performance issues will be reported to regulatory bodies for investigation
- What the internal processes are around dealing with billing and treatment non-compliance in health practitioners
- What the purpose of the practitioner register is and the internal processes leading to this

Thank you for the opportunity to provide this feedback. AAPi welcomes the opportunity to support the development of the guidelines that will sit under these proposed changes. AAPi is committed to assisting psychologists in providing consistent, high-quality treatment to those who fall under the NSW CTP and workers compensation.

Sincerely,



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