

Workers compensation guidelines for the approval of treating allied health practitioners

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1. About these guidelines

The State Insurance Regulatory Authority (SIRA) is the government organisation responsible for regulating and administering workers compensation (WC), motor accidents compulsory third party (CTP) insurance and home building compensation insurance in New South Wales (NSW).

1.1. Purpose

The *Workers compensation guidelines for the approval of treating allied health practitioners* (the Guidelines) apply to treating allied health practitioners working within the NSW workers compensation system and outline the requirements to be **appropriately qualified** for the purpose of providing allied health treatment or services.

1.2. Guideline-making powers

Under workers compensation legislation, employers are liable for the cost of any reasonably necessary medical or related treatment received by a worker as a result of an injury. Section 60(2A) of the *Workers Compensation Act 1987* (1987 Act) outlines circumstances where the worker's employer is not liable for the costs of any treatment or service, including where the treatment or service is given or provided by a person who is not **appropriately qualified** to give or provide the treatment service.

Section 60(2C)(e) of the 1987 Act provides that workers compensation guidelines may make provision for specifying the qualifications or experience that a person requires to be **appropriately qualified** to provide a treatment or service to an injured worker, including by providing that a person is not appropriately qualified unless approved or accredited by the Authority.

1.3. Interpretation

These Guidelines are to be read in conjunction with relevant provisions of the *Workers Compensation Act 1987* (1987 Act) and the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act), together with the regulations and workers compensation guidelines made under those Acts.

These Guidelines support the system objectives as described in section 3 of the 1998 Act. Specifically, to provide prompt treatment of injuries, effective and proactive management of injuries, and necessary medical and vocational rehabilitation following injuries, in order to assist injured workers and to promote their return to work as soon as possible.

The information in these Guidelines is within the legislated guideline-making powers and therefore requires mandatory compliance by treatment practitioners seeking to obtain and maintain SIRA approval, except for **Appendix 1 - Administration of approval processes**, which is included to provide information on how the guidelines will be administered.

1.4. Commencement

These Guidelines will take effect and apply to new applications for approval by treating allied health practitioners, as well as existing approved allied health practitioners from 16 July 2021.

These Guidelines will apply until SIRA amends, revokes, or replaces them in whole or in part.

These Guidelines replace the Guideline for approval of treating allied health practitioners 2016 No 2 ('the former Guidelines'). A 12-month transitional arrangement for treating allied health practitioners who were approved under the former Guidelines is outlined below.

1.5. Transitional arrangements for practitioners with current SIRA approval

All approved practitioners with an active approval number listed on the SIRA website at the date of commencement of these Guidelines ('current approved practitioners') are taken to be approved practitioners for a period of up to 12 months from the date of commencement of these Guidelines.

To remain SIRA approved, within 12 months from the date of commencement of these Guidelines, a current approved practitioner must submit an application for approval (approval process outlined in Appendix) declaring they meet and will adhere to the conditions of approval in accordance with these Guidelines. The practitioner must receive written confirmation from SIRA that their approval has been transitioned to these Guidelines to deliver treatment services.

After 12 months from the date of commencement of these Guidelines a current approved practitioner who has not signed and returned to SIRA an application declaring they meet and agree to comply with the conditions of approval in accordance with these Guidelines, or has not received written confirmation from SIRA of their continued approval after submitting such an application, will cease to be an approved practitioner.

1.6. Practitioners requiring SIRA approval

The following treating allied health practitioner disciplines require approval by SIRA in order to be deemed *appropriately qualified* to provide specified treatment or services in the workers compensation system:

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

Treating allied health practitioners not included in the list above do not require SIRA approval to provide services in the workers compensation system.

2. Approval requirements for treating allied health practitioners

To obtain and maintain SIRA approval to provide treatment or services in the NSW workers compensation system, a treating allied health practitioner is to comply with the following requirements:

- be appropriately qualified
- satisfactorily complete the SIRA allied health practitioner online training program before applying for approval
- apply in writing for approval using the application form available on the SIRA website, and
- comply with the conditions of approval once approved by SIRA.

2.1. Appropriate qualifications for practitioners required to be approved

For the purposes of section 60(2C)(e) of the 1987 Act to be appropriately qualified to give or provide a treatment or service to a worker in NSW, the allied health practitioner must:

- obtain, and maintain, SIRA approval in accordance with these Guidelines, and
- have an appropriate qualification as follows:

Practitioner	Appropriate qualifications
Accredited exercise physiologist	An exercise physiologist who is accredited with Exercise & Sports Science Australia
Chiropractor, Osteopath, Physiotherapist, Psychologist	General registration with the Australian Health Practitioner Regulation Agency
Counsellor	Either of the following: <ul style="list-style-type: none"> i) A full clinical member of the Psychotherapy and Counselling Federation of Australia (PACFA); or ii) A mental health social worker accredited with the Australian Association of Social Workers; or iii) A level 3 or 4 member of the Australian Counsellors Association.

2.2. Conditions of approval for treating allied health practitioners

To be appropriately qualified for the purposes of section 60(2C)(e) of the 1987 Act, approved practitioners must meet, and continue to meet, the following conditions:

- 2.2.1. Have the appropriate qualifications for allied health practitioners as outlined in clause 1.1 of these Guidelines.
- 2.2.2. Deliver services in accordance with:
- NSW workers compensation legislation and guidelines
 - SIRA procedures as described in the *NSW Workers Compensation Guide for Allied Health Practitioners*, including, but not limited to submission of Allied Health Recovery Requests and requirements relating to approval for services
 - the nationally endorsed *Clinical Framework for the Delivery of Health Services*¹
 - the principles of the health benefits of good work²
 - the relevant SIRA workers compensation treating allied health practitioner maximum fees order/s effective on the date the service is delivered.
- 2.2.3. Maintain a current professional indemnity insurance policy and public liability insurance policy throughout the period of approval, and provide evidence on SIRA's request (the amount of cover is to be appropriate to the scope of practice and level of risk and is inclusive of run-off cover).
- 2.2.4. Participate in independent reviews arranged by insurers, in the form, timeframes and manner required by SIRA.
- 2.2.5. Respond to or participate in SIRA communication and reviews in the form, timeframes and manner required and requested by SIRA.
- 2.2.6. Not ask for or accept any inducement, gift, or hospitality from individuals or companies, or enter into arrangements that could be perceived to provide inducements, that may influence, or be seen to influence, their ability to provide treatment to the worker that will best meet their needs (for example, offering or accepting financial incentives for referral of workers).

¹ <https://www.sira.nsw.gov.au/for-service-providers/treatment-advice-centre/clinical-framework>

² Australian and New Zealand Consensus Statement on the Health Benefits of Work: Position Statement: Realising the Health Benefits of Work

- 2.2.7 Declare any real, perceived or potential conflict of interest to the referrer and worker at time of referral or, if a conflict or potential conflict of interest arises after referral, as soon as it arises.
- 2.2.8 Complete any additional training at the request of SIRA, to the standard required by SIRA, within the prescribed timeframe and at the practitioner's own expense.
- 2.2.9 Not have been convicted of any criminal offence within the last 10 years, or have any pending criminal charges, any civil proceedings lodged against them or their practice, or any pending or upheld complaint made about them to insurance, compensation or health authorities, government agencies or statutory bodies regarding their conduct:
- in any role in any insurance compensation system in any Australian jurisdiction and
 - in the provision of health services.
- 2.2.10 Notify SIRA (in writing within seven calendar days) if they become aware that:
- information provided to SIRA in their application, including the conflict of interest declaration was incorrect or incomplete
 - there are changes to their registration, accreditation or membership status relevant to the required appropriate qualifications
 - a complaint has been made about them to insurance, compensation or health authorities, government agencies or statutory bodies regarding their conduct:
 - in any role in any insurance compensation system in any Australian jurisdiction, and
 - in the provision of health services.

2.3 Grounds for declinature of approval of a treating allied health practitioner

Failure to comply with the conditions outlined in clause 1.2 may result in SIRA declining the application for approval/reapproval.

Note: SIRA will decline to approve if the treating allied health 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.

2.4 Grounds for suspension or revocation of approval of a treating allied health practitioner

SIRA may suspend or revoke a treating allied health practitioner's approval during their period of approval for any non-compliance with the legislation and/or conditions of approval in clause 1.2.

SIRA will suspend or revoke its approval from the date of limitation, condition, suspension, revocation, or disqualification if the treating allied health practitioner's registration, accreditation or membership as a health practitioner does not meet the requirements outlined in the legislation or these Guidelines.

2.5 Cases where a treating allied health practitioner does not require SIRA approval

2.5.1 Practitioners delivering services exclusively in the NSW public health system

A treating allied health practitioner exclusively delivering services in the NSW public health system does not require approval by SIRA to deliver treatment services to a worker receiving treatment in the NSW public health system.

2.5.2 Practitioners delivering services exclusively to specific classes of workers

A treating allied health practitioner exclusively delivering services to the following classes of workers in the NSW workers compensation system do not require approval by SIRA in accordance with these Guidelines:

- police officers
- paramedics
- firefighters
- coal miners
- rescue workers, and
- bushfire, emergency and rescue service volunteers.

2.5.3 Interstate practitioners delivering services exclusively outside NSW

A treating allied health practitioner practicing exclusively outside of NSW does not require approval under these Guidelines if the worker/s being treated are also living outside of NSW.

2.6 Period of approval

Practitioners will be approved by SIRA for a fixed period of time up to three years (with an option for SIRA to extend, at SIRA's discretion), which will commence on a date specified by SIRA.

In determining the period of approval, SIRA will consider any relevant information, including the history of a practitioner's compliance with the workers compensation legislation, SIRA fees orders and guidelines, for a reasonable period of time preceding the lodgement of a request for approval.

Appendix 1 – Approval processes

1. Application for approval

To apply for SIRA approval, a practitioner should apply in writing for approval using the relevant form on the SIRA website.

The application will be processed by a SIRA officer. A decision to decline, suspend or revoke approval will be assessed by a manager-level SIRA officer.

2. Timing and notification of a SIRA decision to decline approval

SIRA will process applications for approval and provide notification of its decision within 21 days of receipt.

Where SIRA declines to approve a practitioner, SIRA will advise the practitioner in writing of the decision, including the reasons for that decision, and the period of time, if any, before the practitioner may re-apply for approval and the reasons for that nominated period.

The practitioner may re-apply after the nominated period by completing a new application form.

3. Timing and notification of a SIRA decision to suspend or revoke approval

Where SIRA suspends or revokes approval, SIRA will advise the practitioner in writing of the decision, including the reasons for that decision and period of time, if any, before the practitioner may re-apply for approval and the reasons for that nominated period.

The practitioner may re-apply after the nominated period by completing a new application form.

If an approved practitioner's SIRA approval is suspended or revoked for reasons other than those set out in clause 1.4, the suspension or revocation will take effect 28 calendar days from when the practitioner is advised of SIRA's decision by email.

SIRA will provide written notice electronically to the approved practitioner of the intention to suspend or revoke their approval, with an explanation as to the reasons for the suspension or revocation, through the contact details supplied to SIRA 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.

4. Review of a SIRA approval decision

A practitioner who:

- seeks approval as a treating allied health practitioner and is not approved by SIRA, or
- has been given notice of SIRA's intention to suspend or revoke their approval,

can seek a review of the decision by submitting a written request to SIRA at the email address provided by SIRA in the letter notifying the practitioner of the approval/suspension/revocation decision.

Applications for review should be lodged within 28 calendar days of receipt of the decision/reasons for the decision. The request for review should outline the basis for the request to review and may include additional information, such as

- Review of non-approval – information in support of the application, with specific reference to the criteria for approval that had not been met
- Review of decision to suspend/revoke - the basis for the request to review and may include additional information to address SIRA's reason(s) for suspension or revocation and include information on whether the reason(s) for suspension or revocation no longer exist.

The review will be conducted by an independent officer who was not substantially involved in the original decision. SIRA will notify the practitioner of the outcome within 21 calendar days after receiving the request for review or after receiving the last document or information SIRA may request from the health practitioner. The final decision and reasons for that decision will be issued to the practitioner to the email address supplied by the practitioner.

A request for review does not stay SIRA's decision to decline to approve or suspend or revoke the approval.

5. SIRA will maintain a register of approved practitioners

If SIRA approves a practitioner, SIRA will provide an approval number. The practitioner's name, contact details and approval number will be included in the SIRA register of approved practitioners. The SIRA register of approved practitioners is publicly available on the SIRA website. It is a public register as defined in section 3 of the *Privacy and Personal Information Protection Act 1998*.

An approved practitioner may request SIRA by email that their details be removed from the register as publicly available, and not disclosed to the public.

Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident compulsory third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

SIRA, Level 14-15, 231 Elizabeth Street, Sydney NSW 2000

Website www.sira.nsw.gov.au

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