Australian
Private Hospitals
Association

Draft Guidelines for the Provision of Relevant Services (Health and Related Services)

To whom it may concern

Thank you for the opportunity to make a response to the consulation on Draft Guidelines for the Provision of Relevant Services (Health and Related Services)

General Comments

While noting that private hospitals and day hospitals are listed in the regulations as Relevant Service Providers, much of the language of the Guidelines documents pertains to individual practitioners rather than orgnisations. Consequently we recommend further clarification through-out the document as an aid to interpretation.

Secondly as we explained in our meeting on 21 Feburary, we understand some text in the guidelines has been lifted from relevant Fees Orders and that a separate document "Private Hospitals Fees and Practice Requirements" will also be produced. We understand that for purposes of legal interpretation the Guidelines and Private Hospitals maximum rates order as gazzetted will be the authoritative source and that the document "Private Hospitals Fees and Practice Requirements" will be a communications tool designed to bring all relevant information together in a single document. While we appreciate the intent of this approach, private hospital operators require documentation that is clearly and consistently worded particularly with respect to matters which either explicitly or implicitly pertain to terms of trade.

Specific issues

21. Relevant services cannot be provided by a RSP who has:...

While respecting the intent of this provision is to protect patients, APHA has some concerns about how this measure will be implemented. It is unclear how and by whome it will be monitored. Specifically, it is noted that APHRA rulings do not necessarily result in limits being placed on the ability of a clinician to treat patients.

APHA is concerned that this provision will place private hospitals in a legally dubious position if private hospitals are expected to place additional restrictions on clinicians. This provision also raises medical-legal questions which are unclear. Third this provision is openly worded such that it goes beyond matters for which it would be reasonable to expect that a private hospital would have knowledge. For example, clinicians may not be required to disclose to hospitals or any authority civil proceedings until the outcome of these proceedings is known and even then the outcome of such proceedings may not have implications for the persons right to practice so far as APHRA is concerned.

22. Students being supervised by a RSP must not provide relevant services.

SIRA should note that private hospitals provide significant numbers of student placements. It would be impractical for hospitals to require that students not have contact with compensable patients. Usual practice is for all students to be supervised and for patients to be advised when they are interacting with a student. Consumers can decline to have a student involved in their care on an instant by instant basis.

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23. In providing relevant services, the RSP must notify SIRA (in writing within seven calendar days) if they become aware that:

(a) there are changes to their registration, licence, accreditation, or membership of a self-regulating professional organisation

We assume notification would only be required in the event of accreditation or licencing being revoked and that it would not be required when a hospital is issued an item on their accreditation report that requires follow up or remediation. Please note that we understand that the Australian Commission for Safety and Quality in Health Care may make changes to accreditation processes in mid-2023 which could have implications for the way in which this requirement is implemented.

24. RSPs must respond to SIRA communication in the form, timeframes and manner required and requested by SIRA from time to time.

Ideally the guidelines should include corresponding obligations on the part of SIRA and insurers.

27. RSPs must complete any additional training at the request of SIRA, to the standard required by SIRA, within the required timeframe and at the practitioner's own expense.

We note SIRA's explanation that such training might typically involve participation in training modules prepared by SIRA for which there would be a charge. We would expect that if the direction to undertake training was made to an individual practitioner, the cost of that training would be borne by the individual practitioner.

If the direction was made to a hospital (or their member of staff), we would expect that SIRA would first have regard as to whether the matter concerned was specific to an individual person or hospital or whether it was an issue of systemic concern. If it was an issue of systemic concern, APHA would be of the view that education should be provided to the relevant sector/profession as a whole at no charge

Requirements for communication with the support team

28. RSPs must fully cooperate with reviews by injury management consultants, or any other independent review of relevant services arranged by insurers, in the form, timeframes and manner required by SIRA from time to time.

Timeframes will need to be by agreement of both parties

29. Relevant services must be delivered in communication with the support team, including:

APHA has two concerns in relation to this requirement:

- First requirements for communication with the support team should not breach confidentially between clinician and patient. The required communication should only happen with the consent and knowledge of the consumer and should only convey the minimum detail necessary to facilitate approval and settlement of claims. Specifically this guideline should not be taken to mean that insurers and/or employers should have access to full medical records. This is of particular concern in relation to patients requiring psychiatric or psychological care given the personal and sensitive nature of information recorded in medical records.

- This guideline should not be taken to override usual practice in relation to the communication between a hospital and referrer. It is not usual for hospitals to discuss treatment with a referrer once an admission has been accepted. Rather a discharge summary may be provided to the referrer and/or treating clinician as advised by the patient.

Notifications against individual clinicians

If SIRA were to take action against an individual clinician directing them not to provide services or not to provide a specific kind of service, it would be imperative that any private hospital/day hospital involved in the provision of services in association with that individual also be notified to the extent that SIRA's actions might determine whether SIRA would accept hospital claims for services provided at the request of that individual clinician. Ordinarily APHA would expect that hospital claims would be honoured unless it could be established that the hospital was at fault in providing a services.

Hospitals/day hospitals would require reasonable and formal notice of any individual clinician subject to an order from SIRA so that they could take appropriate steps to avoid accepting referrals for services which might be subject to a SIRA direction.

APHA would have an expectation that hospital claims for services commenced before formal notice of an order from SIRA would be honored; including those services for which discharge could not safely occur until after the date on which notice was provided.

30c. services are not delivered to an injured person concurrently with another similar relevant service (e.g. an injured person should not be receiving concurrent physiotherapy and exercise physiology services) unless the RSPs have provided a clinical justification to the insurer.

APHA has concerns about this clause. There is no evidence base for such a restriction and we are concerned that it opens the door for SIRA and insurers to impose their own interpretations regarding 'similarity' and thereby effectively impose their own definitions of clinical scopes of practice and the design and nature of an individual patient's care plan.

This restriction takes no account of the range of therapies which may or may not be available at any particular facilities, and the facility capacity constraints which may lead to variations in the combination of interventions agreed upon by the treating multidisciplinary team in order to achieve defined clinical goals.

Part 5: Requirements for prescription of medication

APHA seeks confirmation that this part is not relevant to private hospitals. If it is intended that it be applied to private hospitals, further consultation will be required so that SIRA's intent is understood and implemented in a practicable way.

35. In the provision of allied health services RSPs must:…

(c) not exceed a maximum class size of six participants in group classes provided byphysiotherapists, exercise physiologists, chiropractors, osteopaths, psychologists, andcounsellors (workers compensation scheme only).

APHA does not agree to this restriction in class size as it conflicts with other guidelines for service delivery – such as cardiac rehabilitation or hydrotherapy groups. Group sessions provided in private hospitals will typically include both SIRA and non-SIRA clients. It is not reasonable for SIRA to impose its own requirements in addition to other guidelines and standards to which the sector is already subject.

This restriction also takes no account of facility capacity, staffing levels and models of care all of which may determine group size. The draft SIRA guidelines appear to presume an ideal ratio of clinicians to group participants without taking into account the need for flexible approaches based on patient acuity[1].

[1] RACP, Standards for rehabilitation services *The provision of inpatient adult rehabilitation medicine services in public and private hospitals*

36. In the provision of relevant services, RSPs who are allied health practitioners must:

(a) submit an Allied Health Treatment Request (AHTR) form (using the form approved bySIRA – available on SIRA's website) for approval of treatment proposed

APHA seeks confirmation that this clause is not applicable to services provided to admitted patients (either overnight or day patients).

37. Surgical prostheses must be selected from the Department of Health Prostheses Listand billed at the minimum benefit rate (in accordance with the Private Health Insurance(Prostheses) Rules (Cth) rate current at the time of service.

Currently in the Gazetted rates there is a 5% Handling fee that is applied for prostheses. APHA seeks confirmation that this fee will still be applied.

Please note that as previously discussed the Australian Government is considering significant reforms to the Prostheses List which could include moving some items (currently listed in Part D of the Prostheses List) to separate and yet to be drafted regulations. The expected date of effect for these changes is 1 July 2023 but consultation is still ongoing.

39. In billing for the provision of relevant services, the RSP must

(e) not bill a fee for surgical services consultation during routine aftercare following a surgical procedure, unless clinical justification is provided to the insurer

(f) not bill a fee for consultations conducted on the same day as planned surgery (the costof these consultations is already included in the fee for the surgical procedure)

APHA seeks confirmation in the guidelines that it is the requirement of the surgeon, not the private hospital to ensure compliance with 39e and 39f and that no penalty or delay in settlement will be applied to a private hospital for claims in respect to hospital care associated with a surgical procedure if the surgeon was found not to comply with these guidelines.

Invoicing requirements for relevant services, excluding pharmacyservices (workers compensation scheme only)

The requirement for all allied health professionals providing services within private hospitals to have a SIRA approval number is a significant expansion on current requirements. Currently private hospitals are only required to specify the SIRA approval number for physiotherapists. This additional requirement will increase costs for private hospital operators by $300 per person in order to obtain approval numbers and also add to the administrative costs of invoicing.

The requirement that invoices be submitted within 30 calendar days of the service being provided should be reworded to make it consistent with usual practice across the sector. It should be amended to require that service providers use 'best endeavours' to provide an invoice within 30 days from discharge. Date of discharge is unambiguous and is recorded in a standardised fashion. There may sometime be a significant elapse of time between provision of service and date of discharge and in some instances applicable rates will not be clear until after discharge.

The requirement that invoices list both AHPRA numbersand SIRA approval numbers imposes an additional administrative burden. Private hospitals do not routinely collect AHPRA numbers or association

membership numbers within their billing systems. The requirement for SIRA approval numbers for all allied health professionals is also an expansion on current requirements and compliance costs as stated above.

The requirement for service duration needs to be clarified. Specifically if the patient is admitted for a reahabilitation day program does the private hospital need to report the length of time in the facility?

The changes detailed for invoicing will require a number of systems changes for private hospital billing systems. If implementation of these changes is to proceed, changes which require systems change should be delayed until the systems changes required can be agreed with the sector and time allowed for software vendors to make the required software upgrades. This may mean that some changes, eg changes to the format and details to be provided on invoices will need to be delayed by 12 months.

The complexity of the issues raised is such that APHA would appreciate the opportunity to review a revised draft of the Guidelines and to discuss the alignment of the Guidelines with any fees orders or other material produced by SIRA for the guidance of private hospitals.

Yours sincerely

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