



30 May 2016
Via email: wcreg2016@sira.nsw.gov.au

Shaun Lane
President
ARPA NSW
PO Box 2147
PARKDALE VIC 3195

Dear Ms Connelly,

Re: Consultation – Draft 2016 Regulation

Thank you for providing an opportunity for the Australian Rehabilitation Providers Association (ARPA) to provide comment to SIRA, on behalf of The Hon. Victor Dominello, Minister for Innovation and Better Regulation, in relation to the draft 2016 Regulation. ARPA supports the Government's decision to remake the 2010 Regulation with amendments.

We provide this response in consideration of the following objectives pertinent to ARPA and its' members:

- Securing workers' health, safety and welfare while preventing work-related injury
- Supporting prompt treatment and rehabilitation to assist injured workers to return to work
- Promoting workplace injury prevention, effective injury management and return to work measures and programs
- Ensuring that persons injured in the workplace have access to treatment that will assist their recovery
- Consideration of the requirements of return to work programs; and
- How a workplace rehabilitation provider gains approval and remains approved to operate within the workers' compensation system.

On review of the *Draft 2016 Regulation* and the *Regulatory Impact Statement and Better Regulation Statement* we have noted that the following changes are relevant to ARPA, its' members and the workers and employers that we support to promote prevention, recovery and return to work:

2016 Provision	Comments
Clauses 6-10 of 2010 Provision have been removed from the Draft Regulation Clause 186 2010 Provisions - Saving Any act, matter or thing that, immediately before the repeal of the Workers Compensation Regulation 2003 , had effect under any of that Regulation continues to have effect under this Regulation.	We note that Clause 38 of Part 5 of Schedule 8 the Draft 2016 Regulation allows for these clauses to continue to have effect on certain workers, namely shearers and certain meat industry workers due to industrial instruments We note the removal of 'seriously injured worker/s' and replaced with



	references to 'worker/s with highest needs'. This change in terminology focuses on recovery rather than disability.
<p>Part 5 – Title amended: 'Return-to-work programs' changed to 'Return to work Programs under the 1998 Act</p> <p>Clause 11 (2) wording simplified (2) A category 2 employer who does not establish a separate return-to-work program in accordance with the 1998 Act may establish a return-to-work program by adopting a relevant standard return-to-work program prepared under this clause.</p>	ARPA understands that Category 2 employers use the standard return to work program developed by SIRA. No employers currently have an approved shared return to work program and SIRA has not received any applications from employers in the last five years. We support this position in the interest of reduced administration.
<p>Clause 29 Simplified wording – Register of Certificates</p> <p>Comparison between the 2010 and the 2016 Provision does not show any change to the wording of the Clause.</p>	<ol style="list-style-type: none">(1) The Authority is to cause a register of certificates of approval to be kept in the form directed by the Authority, and is caused to be recorded in the register in respect of each certificate:<ol style="list-style-type: none">(a) The matters required by this Regulation to be specified in the certificate, and(b) particulars of any amendment of the certificate, and(c) particulars of any cancellation, suspension or surrender of the certificate, and(d) any other matters that the Authority thinks fit(2) The Authority may cause to be made such alterations of the register that are necessary to ensure that the register is an accurate record.(3) The register may be inspected by any person at the office of the Authority during the Authority's usual office hours and copies of all or any part of the register may be taken on payment of such fee as the Authority may determine.
<p>Schedule 3 Part 3 clause 20(b) 2016 Provision – removed reference to 'medical certificate' and replaced with 'certificate of capacity'.</p>	<p>ARPA supports the updated terminology to reinforce the positive messages that the certificate of capacity infers.</p> <p>In relation to Clause 20 – Employer must tell insurer if unable to give</p>



suitable work requested by injured worker

If a worker employed by the Employer is partially incapacitated for work as a result of an injury requests the Employer to provide suitable employment for him or her and the Employer does not immediately provide suitable employment, the Employer must promptly notify the Insurer of the following:

- (a) The fact of the worker's request and the Employer has not provided suitable employment,
- (b) Any proposal to provide and arrange for suitable employment for the worker, having regard to the certificate of capacity which the worker supplied and to the Employer's return-to-work program (if any) or otherwise.

ARPA strongly asserts that this provision should be specifically addressed to facilitate early intervention and recovery. This could include SafeWork NSW Inspectors and/or early referral to workplace rehabilitation where suitable employment has not been offered. It should be noted that employers may not choose to comply with the provision to notify and therefore alternate notifications such as from a medical practitioner, workplace rehabilitation provider and proactive communication by the Insurer in relation to the provision of suitable employment.

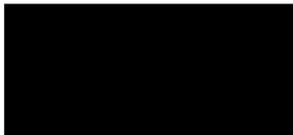
ARPA supports The Standing Committee Review of WorkCover which made the recommendations: Recommendation 11 That the WorkCover Authority of NSW review the mechanisms used to ensure compliance with the return to work provisions contained in the Workplace Injury Management and Workers



	<p>Compensation Act 1998, and consider introducing incentives to encourage compliance and penalties for non-compliance.</p> <p>Recommendation 12 That the WorkCover Authority of NSW undertake an education campaign to inform employees and employers of their rights and obligations in regard to returning to work following an injury.</p> <p>ARPA recommends that this information should be made available to the employer and employee at the time of injury.</p>
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Thank you again for this opportunity to respond.

Kind Regards



Shaun Lane
President
ARPA NSW