

Australian Medico-Legal College

ABN 37 365 943 169



Dr Drew Dixon, President Australian Medico-Legal College

Manager: Mandy Chalmers Phone: 0419 886 557 – PO Box 246, Bondi Rd, Bondi, NSW 2026

Email: ausmlcollege@gmail.com

27 February 2023

Medicolegal Services prescribed in Clause 4A(1) (za)(i)(ii) and (iii) has been prefaced by the need for RSPs to be professional, impartial and empathetic as well as avoiding conflict of interest.

One of the questions asked of medicolegal IME specialists is: Is the proposed treatment reasonable and necessary, will it optimise recovery and will it lead to return to work (albeit modified or staggered in some cases).

The physiotherapists have sayings. "movement is life" and "use it or lose it" so recovery through work options is a "win-win" situation for the injured claimant, the employer and the insurer.

The statement: Empower the injured to manage their injury is critical to positive rehabilitation and by adopting and encouraging such an approach, it will result in great benefit. This can be achieved through IMC (Injury Management Consulting) and encouraged by thoughtful IME reporting.

The advantage of IMC is that the consultant can liaise directly with the claimant's GP to facilitate positive management. Also, telephone or video conferencing can also assist in IME assessment.

We have found claimants are much more relaxed in their home environment with family support and many social and cognitive barriers are overcome. The use of Translators Online is beneficial to ensure all relevant matters have been covered. However, the ability to conduct a detailed clinical examination is limited when Telehealth is used.

BIAS may occur in medicolegal services. Usually it is not conscious, but unconscious and inadvertently can give rise to apprehension of bias. To counter this the AMLC education program

emphasises that an IME or IMC report should be independent of the referrer. It must be the same whoever refereed the case.

This can be ameliorated if the Assessor/IME Consultant:

1. Clarifies as to why the claimant is there
2. Tells the claimant it is for dispute resolution;
3. The subsequent report will be intended to be impartial, reliant on the facts provided;
4. Although it is a clinical setting, the final Statement of Reasons, by its nature, is more forensic than a normal clinical report. It is adduced from the available evidence. This will include:
 - a) A detailed mechanism of the injury, its response to treatment and subsequent progress.
 - b) The clinical findings and results of investigations.
 - c) All relevant documentation, especially that which is contemporary to the date of injury.
 - d) Evidence Based Medicine (EBM) if and when appropriate.

The Code of Conduct should be compliant with the NSW Medical Council Guidelines which excludes treatment advice and avoiding conflict of interest and perceived bias.

The Australian Medicolegal College (AMLC) provides ongoing education in all the above areas to maintain a high level of forensic competence within these draft SIRA Guidelines.

Treatment Requests must be seen to be tailored to the claimants' needs as per the GP, specialist, physiotherapist and other allied health services. The IME specialist will provide an overview of services appearing to be excessive or unrelated to the original injuries and whether such services remain reasonable and necessary. Fee exploitation, by charging each part of a procedure as if it is a stand-alone item, should be brought to the referrers attention by the IME specialist.

Prostheses

Surgical prosthetics vary considerably in price, for example, a hemi arthroplasty may be an expensive model but confers no greater advantage than a standard one. Orthotic and prescribed footwear such as fashioned insoles and orthotic bracing can be overpriced. Sensible costing can be contained if selected from the Department of Health prosthesis lists (Cth) – a significant saving to hospitals and claimants alike.

Compliance

The starting point of advising AHPs' need to comply is summed up well in the slide which shows:

- Engage
- Expect
- Educate

- Monitor

>>>>>>>>>>>>>>>>>> Notify if ongoing

AMLC suggests this be handled initially by telephone triage, outlining the problem, and giving the Health Practitioner reasons to take corrective action and later, a gentle reminder, to keep things on track.

This well-intentioned approach should be the most effective method of communication to resolve the issues and to stop them continuing, without the need for punitive action.

Travel costs

AMLC believes its Fellows who service regionally in NSW will need assistance with out-of-pocket expenses, eg. taxi or Uber transfers or overnight stay if flights are delayed or cancelled.

In conclusion, AMLC exhorts all its Fellows to act in good faith, concern themselves impartially with the relevant material sufficient to make a reasoned decision about causation, WPI, reasonable and necessary treatment, the costs of such treatment, and the need for ongoing allied health consultations and prosthetic requirements.

The Australian Medico-Legal College Is always ready to assist SIRA with all aspects of its duties concerning independent medical assessment of claimants. Please feel free to contact us at any time.

Drew Dixon – President

David Wilcox – Chairman Professional Development Committee AMLC