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3 25 July 2019

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5 State Insurance Regulatory Authority

6 Workers & Home Building Compensation Regulation

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11 **Email:** [nontreatingpractitoiners@sira.nsw.gov.au](mailto:nontreatingpractitoiners@sira.nsw.gov.au)

12 Dear Non-Treating Practitioner Team,

13 RE: SIRA frameworks for non-treating health practitioners; injury management consultant approval

14 and regulatory framework

15

16

17 Injury Management Consultants do and should play an important role in Injury Management. This

18 role can be improved during the approval and referral process, when all parties should have

19 confidence that the IMC's are independent for the resolution of real injury management and return

20 to work problems.

21

22 A meaningful injury management problem solving process contributes to the

23 timely, safe and durable return to work of injured workers.

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24

25 This is best achieved by an IMC in relevant treating practice working with the injured worker,

26 Nominated Treating Doctors (NTDr), other treating providers, rehabilitation providers, the employer,

27 unions and other parties.

28

29 We require an improved function and guidelines for the utilisation of the Injury Management

30 Consultants to move beyond an adversarial role with workers and their treating practitioners.

31

32 The AMWU values the opportunity to participate in this consultation in improving the outcomes for

33 injured workers and welcomes further consultation on this, and other matters affecting workers.

34

35 Our submission follows my signature.

36

37 Regards,

38

39 Steve Murphy

40 State Secretary

41 AMWU NSW & ACT

42

43

44 Overall recommendations

45 ***Injury Management Consultants and Independent Consultant/Independent Physiotherapy***

46 ***Consultant must be in treating practice\****

47 For their qualification, IMCs (and IPCs) must be billing for treatment in the NSW workers scheme  
48 under the relevant codes for treatment.

49 \*The AMWU notes SIRA's current alternate to qualify as an IMC – Fellow of the Australasian Faculty  
50 of Occupational and Environmental Medicine (AFOEM) – that is "...have at least 5 years full-time  
51 equivalent relevant clinical experience, including the treatment/management of work related  
52 injuries..." Our recommendation re an emphasis upon treating practise is that it must be  
53 contemporary treating practise.

54 IMCs must be treating more patients than they see for IMC referrals.

55 ***Choice - Injured workers must be offered three IMCs or IC/IPC's to choose from***

56 Recommendation, The insurer must explain to the injured worker what the problem/s are and why  
57 an IMC has been assessed as necessary to assist in resolving the alleged problem/s with injury  
58 management and return to work.

59 Recommendation, Injured workers must be given three IMCs to choose from when a referral is  
60 agreed necessary to resolve a problem. The injured worker will be provided reasonable opportunity  
61 to select from three treating practitioner IMC's. Having selected an IMC a compliant referral will be  
62 provided to all parties inclusive of all documents.

63 Recommendation, The failure to distribute all documents that form the particular IMC referral to all  
64 parties in a timely and accessible form must cease. It is essential in a mediation process that all  
65 parties are informed so that they may participate to meaningfully in the mediation and facilitation of  
66 a problem known to all parties. In short, therefore all documents including the referral to the IMC  
67 must be provided to all parties involved in a timely and accessible manner.

68

69 ***Qualification, College membership etc.***

70 Recommendation, The IMC must be a peer of the injured workers treating practitioner, who they are  
71 to engage with in solving injury management problems (that is, they must be a member of the same  
72 college).

73 Where an injured worker is seeing a General Practitioner, who is a member of the RACGP, then the  
74 three IMCs recommended to the injured workers for selection from must all be RACGP members and  
75 providing treatment as General Practitioners.

76 Other examples for clarity; if the injured workers is seeing a psychologist then the referral must be  
77 to a psychologist. The same would apply to Occupational Physicians.

78

79 ***Conflict of interests including declaration of relevant complaints***

80 Recommendation that IMCs must declare conflicts of interest.

81 Recommendation where there is complaint history between the workers treating practitioner and  
82 any of the proposed IMCs, the IMC/s must declare and exclude themselves. Workers treating  
83 practitioners should declare any issues as well.

84

85 ***Desk top reviews must no longer take place.***

86 Recommendation, desk top reviews should cease. There is no benefit to workers that the AMWU  
87 have seen.

88 If SIRA choose to not adopt this as a recommendation for Injury Management problem solving then  
89 we make the following submission and recommendation.

90 Recommendation, in making the referral for a desk top review the choice from three IMCs for the  
91 injured worker to select from must feature. It must include an examination of the injured worker at  
92 an appropriate venue fit for the purpose of carrying out such an examination.

93 Recommendation, prior to the desk top review referral being made, a properly arranged (time,  
94 place, invitation to parties, agenda and minute) case conference with all relevant Injury  
95 Management Planning parties must take place with the minutes of any such Case Conference being  
96 provided to the IMC.

97 Recommendation, The parties must be given the opportunity in the case conference minute to  
98 describe and agree and/or disagree with the problem affecting the Injury Management and Return  
99 To Work Planning of the injured worker.

100

## 101 Functions of the IMC

### 102 **Function**

103 The 2011 Guideline describes the role of an IMC and IPC as one who facilitates to assist parties to  
104 find solutions to problems of an Injury Management and Return To Work kind, that is contributing to  
105 the objective of Chapter Three of the WIMWC Act 1998 of a "...safe, timely and durable return to  
106 work..." The AMWU recommends that the words of the 2011 Guideline must remain in 2019,

### 107 **Role**

108 Recommendation, IMCs must assess the nature of the alleged problem with the parties and attempt  
109 to mediate a solution to the problem with the parties.

110

## 111 Selection Criteria

112 Selection criteria has been removed without explanation. This is retrograde step. Recommendation,  
113 As described above IMCs must be treating practitioners practising by providing treatment within the  
114 relevant College to give their role the credibility and status in the process.

## 115 Appointment Process

116 SIRA's proposed description of the process as a regulatory burden, is not supported by the AMWU  
117 nor successfully argued by SIRA. All parties must have confidence that the approval process remains  
118 disciplined and transparent.

119 Recommend SIRA establish and support a tripartite body to approve IMC's via consensus. In the  
120 past, the Ministerial Advisory Council carried out this role therefore the tripartite body would be the  
121 appropriate body to do so now.

122 Recommendation, IMCs must demonstrate a history of maintaining the Conditions of Approval.

## 123 Qualifications / Clinical Experience

124 We have recommend that IMCs must be of the same college etc, as the respective treating  
125 practitioner that they are to engage with in solving a problem i.e. RACGP member, Fellow of the  
126 Australasian Faculty of Occupational and Environmental Medicine (AFOEM), , psychologist  
127 association or psychiatrist college.

## 128 Training Requirement

129 The AMWU recommends that they must be trained in mediation and facilitation. Negotiation is not  
130 appropriate for this role.

131 See our recommendations upon Role, Functions and Responsibilities

## 132 Monitoring

133 Complaints about an IMC must form part of the monitoring regime for an IMCs ongoing approval.

134 This should be considered by the tripartite body as recommended above.

## 135 Timeframe

136 We accept the proposal, however we recommend that during the 3 years a noncompliance occurs  
137 then –

- 138 • approval is to be limited to 12 months for a less serious contravention;
- 139 • suspension for a serious contravention, both will require requiring formal review; and
- 140 • and if further contravention occurs then disqualification will occur

## 141 Re-Approval

142 Recommendation, IMCs must demonstrate legitimate compliance with the NSW workers  
143 compensation legislation inclusive of these guidelines and the IMC referral guidelines.

144 Recommendation, Revision of outcome must be obtained from 3 referees (at least 2 must not to be  
145 insurers, brokers or claims agents).

## 146 Knowledge

147 The AMWU agrees\* however we seek clarification on how the competency will be assessed along  
148 with maintenance of competence.

149 \* “...have an extensive working knowledge of the NSW workers compensation system

150 To set a minimum standard expected for competency in the role, as IMC required to educate  
151 various parties about the workers compensation system. “

152 and “...To set a minimum standard expected for competency as IMC role requires high level  
153 skills to adequately perform the mediation and negotiation aspect of the role in order to  
154 overcome barriers to recovery at work.” [The AMWU reminds the reader and decision maker  
155 of our recommendation that the emphasis should be on mediation and facilitation skills not  
156 negotiation]

157

## 158 Complaint Handling

159 Recommendation that SIRA be replaced with, SIRA managed with oversight by the SIRA established  
160 tripartite body.

## 161 Authorised Health Practitioner (AHPs) – a feature of CTP insurance

162 The AMWU could not discern the AHPs application/involvement in the NSW workers compensation  
163 scheme. We would appreciate information and advice about a proposed role, should there be an  
164 argument for their involvement in workers compensation.

165

166 End – Thank you

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