

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



To Whom it may concern,

RE: SIRA Consultation on the Draft State Insurance and Care Governance Amendment Regulation 2022

Osteopathy Australia welcomes the opportunity to provide a feedback submission regarding the Draft State Insurance and Care Governance Amendment Regulation 2022.

Osteopaths in Australia are university-qualified allied health practitioners who have completed a minimum of four years of study in anatomy, physiology, pathology, general healthcare diagnosis and osteopathic techniques. Osteopaths put emphasis the neuromusculoskeletal system as essential to the body's function, a person's health, and workforce participation. Osteopaths base their treatment interventions on functional, movement, orthopaedic and neurological assessments to provide the best healthcare outcomes for their patients.

Osteopaths are government-registered through the Australian Health Practitioner Regulatory Agency (AHPRA) and must maintain and develop their skills through completing at least 25 hours of continued professional development (CPD) each year. Osteopaths work in wide range of health settings including private practice, multidisciplinary clinics, worker compensation settings, rehabilitation clinics, aged care facilities, professional sports clubs, government, chronic pain management settings and research institutions.

Osteopathy Australia is the peak body and national association for osteopaths, representing the vast majority of Osteopaths within Australia. We represent the interests of osteopaths and the osteopathy profession and for the consumers right to access osteopathic services. As such we wish to address the already legislated items and proposed amendments to the State Insurance and Care Governance Act 2015.

Feedback on the Draft Regulations:

Osteopathy Australia main concerns regarding the Draft State Insurance and Care Governance Amendment Regulation 2022 is that intent of these legislative and regulatory amendments are still not clear. While additionally provided documents state that these changes have been put into place as mechanisms to deal with outlier providers who may abuse the system. We request that SIRA clearly states if these amended regulations aim to audit funding and claiming misuse, control clinical decisions or wider procedural misconduct. Without this clarification, the regulation and legislation changes appear to be an attack on the allied health profession rather than the supposed intended outlying few.

The amended regulations to Schedule 3 of the State Insurance and Care Governance Act 2015, gives new powers to SIRA to direct relevant service providers. Specifically, under clause 26D (1b), (1c) and (1d) SIRA will be able to give directions to a service provider requiring them to take specified relevant services, not to provide specified relevant services or not to provide any services for the

purpose of workers compensation and motor accidents legislation. However, it has not been defined who will be making these decisions, what their qualifications are or what they are basing their judgement off. Providing service directions is not of minor consequence and can significantly impact an allied health practitioner's ability to provide the best health care outcomes. Allied Health Practitioners such as Osteopaths are qualified to make the service provision decisions and provide the best patient care outcomes not insurers. They have been referred to by medical professionals as the qualified practitioner to deal with the specified injury and therefore should be able to determine the best plan of action and treatment. SIRA should not be the authority in how treatment is provided or directed, if there is concern over a treatment plan it should be assessed by an independent clinically qualified consultant undertaking a peer review of a treatment plan.

Osteopathy Australia does believe it is reasonable to have mechanisms in place within the legislation and regulations to allow for the regulation of the minority of providers who may be abusing the system. It should not however be legislated without proper clarification as to its purpose and on what basis decisions will be made upon. While we appreciate that the amended regulations to which this submission is base upon do attempt to provide this, they have still left opportunity for misuse. For example, Section 4C (2e) of the draft amended regulations still states that SIRA can provide directions if "SIRA reasonably believes a direction is required". Again, this has no reference to who at SIRA will be making these decisions and essentially states that it could be given in any circumstance. Having statements like this could result in the misuse of this power and unnecessary intervention which will negatively impact patient care and cause financial burden to both the practitioner and SIRA.

Similarly, under clause 26E (3) it is stated that "SIRA may wholly or partly, amend, revoke or replace the guidelines". As these are the guidelines given to service providers concerning the provision of services, how can they be amended, revoked, or replaced without consultation or stated reasoning? This legislation could potentially exclude certain service providers from providing some or all treatment to their patients and mean goal posts can change without notice. Again, this is undermining the clinical judgement and qualifications of allied health practitioners to provide the best treatment to their patients. It is instead positioning the needs of an insurer above that of patients in the need of care and presenting to the public that allied health professionals are unable to create their own clinical guidelines and judgements.

Further, Osteopathy Australia wants clarification over the current penalties for allied health practitioners who do not comply with SIRA directions. Under clause 26C (2) and 26D (3), it is stated that "A relevant service provider must comply with a direction given to the provider under this section; Maximum penalty – for a corporation is 500 penalty units or for another person 100 penalty units". However, what a penalty unit is has not been defined within the legislation. If this is to be replaced by the financial penalty that is stated within Schedule 1 Penalty Notice offences of the draft amended regulations, this should be stated clearly, so no confusion exists.

Osteopathy Australia asks that SIRA ensures that the intent of these legislative and regulatory amendments is included rather than assumed to limit its potential misuse. This intent should stipulate if the new directive powers are aimed to control clinical decisions, funding misuse or procedural items.

Further response items:

Osteopathy Australia would also like to appeal to SIRA to introduce a grace period for allied health practitioners undertaking the re-registration process. As practitioners need to undertake a course to

re-register after the deadline, which requires an out lay 16 hours and is reliant on an outside provider to mark it, it may take a significant time-period to be completed, much of which is not in control by the provider. We request that SIRA allows a grace period for this to be completed to lessen the financial burden to practitioners who cannot treat SIRA patients in that time-period and to also ensure that a continuation of care occurs for these patients. Practitioners and SIRA alike could also benefit from a provider portal on the SIRA website where practitioners can update their details regularly to ensure they receive all communications from SIRA but also update their practising details so that the most up to date details are available to patients.

While we respect that these changes to the legislation may have been put into place as mechanisms to deal with the few outlier providers who may not be abiding by certain regulations, it is not fair to make broad legislative statements. The legislation needs to be clarified to ensure that no singular body has sole power over the treatment of patients in a worker's compensation or motor accidents setting. These legislative changes are ultimately seated in a perceived mistrust of allied health providers doing the right thing and has the potential to promote this culture of mistrust towards allied health practitioners by fellow healthcare providers and the public. It will put insurers in a position of power while stripping allied health practitioners to make clinical judgements in how to treat SIRA patients.

Osteopathy Australia would appreciate the opportunity to discuss this further in a meeting with SIRA, with the hope to address some of our concerns raised in this letter.

Thank you for this opportunity and time. Please feel free to reach out on the below contact information if you wish to discuss further.

Your Sincerely,

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