



The Law Society
OF NEW SOUTH WALES

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20 February 2026

Ms Sue Dawson
Independent Reviewer
State Insurance Regulatory Authority
Level 14-15, 231 Elizabeth St
SYDNEY NSW 2000

By e-mail: healthregulationreview@sira.nsw.gov.au

Dear Ms Dawson,

REVIEW OF HEALTH PROVIDER REGULATION WITHIN PERSONAL INJURY SCHEMES

The Law Society appreciates the opportunity to make a submission to the Review of Health Provider Regulation within Personal Injury Schemes (**Review**). The Law Society's Injury Compensation Committee contributed to this submission.

The Law Society considers that the regulation of health providers within personal injury schemes, including with respect to the delineation of regulatory responsibilities to ensure appropriate standards of practice and conduct, is primarily a matter for the Government in conjunction with the Health Care Complaints Commission (**HCCC**) and other relevant health professional councils.

It is important to note, however, that the legislative objectives of the *State Insurance and Care Governance Act 2015* (NSW) provide that the State Insurance Regulatory Agency's (**SIRA**) primary role from a regulatory perspective is the supervision and regulatory oversight of insurers.¹ The HCCC's primary role, on the other hand, is to deal with complaints pertaining to medical practitioners arising under the *Health Care Complaints Act 1993* (NSW), including relevant investigations and prosecutions.² Reforms from 2022 to Division 3, Part 3 of the *State Insurance and Care Governance Act 2015* (NSW) empowered SIRA, among other matters, to issue directions to 'relevant service providers', including health providers.³ In our view, however, it is important to respect the distinct regulatory roles of SIRA and the HCCC, as prescribed by legislation, in the context of this review.

Our submission focuses on some of the issues that lie at the intersection of health provider regulation, the legislative schemes for CTP and Workers Compensation insurance and legal practice. In the interests of building a whole-of-system view of emerging challenges, we provide observations from our members, who represent both claimants/workers and insurers, in their work with health providers across the CTP and Workers Compensation schemes.

¹ *State Insurance and Care Governance Act 2015* (NSW), s 24.

² *Health Care Complaints Act 1993* (NSW), s 3.

³ *State Insurance and Care Governance Act 2015* (NSW), s 26D.

The need to ensure supply of medical providers within the scheme

In recent years, our members have noted that it is increasingly difficult to find medical providers within the schemes. This is particularly apparent in certain medical specialities (e.g., psychiatry, including child psychiatry, infectious diseases and neurosurgery). Our members report that the problem is exacerbated in rural and regional areas, with clients often required to travel long distances or attend telehealth appointments with providers based in Sydney.

At the current time, SIRA maintains lists of practitioners authorised to work within the schemes. In CTP matters, SIRA publishes a list of medical providers permitted to give evidence in court and other dispute resolution proceedings.⁴ In Workers Compensation matters, SIRA publishes a list of Permanent Impairment Assessors.⁵

In the experience of our members, when medical providers on the lists are contacted, they often decline the request, noting that they do not take on personal injury matters. In practical terms, this means that the lists, while they may reflect eligibility, are not truly representative of medical providers willing to provide services in CTP and Workers Compensation matters at the current time.

We suggest that there may be a number of reasons for the lack of supply of medical providers in the schemes. There may be a shortage of practitioners in certain specialities within the community at large which, as a corollary, impacts supply within the scheme. The complex intersection of legislative and regulatory instruments applying to health providers may mean that they are reluctant to take on CTP and/or Workers Compensation matters. Further, we understand that the maximum fees payable to medical practitioners operating in the schemes is not commensurate with fees charged in private practice or in the provision of health services for other personal injury matters.

We suggest that there is a need to address all of the above factors to ensure supply into the future. While regulatory clarity may go some way to addressing the supply shortage, we suggest that this will not occur if there is a perceived 'overregulation' of medical providers within the schemes in an attempt to discipline the small number of outlier providers.

It is possible that, if providing medical treatment within the CTP and/or Workers Compensation scheme demands that providers must comply with complex guidelines above and beyond their existing professional responsibilities, this may lead to the further entrenchment of medical practices whose business model is based exclusively on personal injury work rather than encouraging a broad range of practitioners to participate in the schemes. We suggest that this would be to the disadvantage of injured persons and the overall operation of the schemes.

The treatment and rehabilitation of the injured person in the context of regulatory reform

It is important to foreground the policy objectives of both the motor accidents and workers compensation insurance schemes as these relate to the treatment and rehabilitation of injured people.

The first objective of the CTP scheme set out in s 1.3(2)(a) of the *Motor Accidents Injuries Act 2017* (NSW) is to 'encourage early and appropriate treatment and care to achieve optimum recovery of persons from injuries sustained in motor accidents and to maximise their return to work or other activities'. Similarly, the system objectives at s 3(b) of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) include the provision of 'prompt treatment of injuries', 'effective and proactive management of injuries', and 'necessary medical and vocational rehabilitation following injuries'.

⁴ See Part 8 of the Motor Accident Guidelines, pursuant to section 7.52(2) of the *Motor Accident Injuries Act 2017* (Cth).

⁵ See ss 332(1), 376(1)(1a) and 377(2) of the *Workplace Injury Management and Workers Compensation Act 1998*.

We consider it important that any regulatory approach to the provision of medical services in the schemes is undertaken in such a way that the treatment and rehabilitation of injured people are centred. It is important that people injured in motor accidents or at their workplace are able to access high-quality, evidence-based care that will assist their recovery.

The issue of 'overservicing' is often raised in the context of regulating medical providers in the scheme. We suggest this term must be clarified and that any regulatory model must allow for an appropriate degree of variation between the clinical choices medical practitioners make in terms of the therapeutic plan for their patients, while guarding against fraud. If there is no degree of flexibility, it will be difficult to achieve the treatment and rehabilitation objectives of the schemes, and it is likely that more medical providers will not take on patients who are participating in the schemes.

In this context, it is important to note that the legislative structure of the scheme is designed to deter overservicing. For example, s 3.24(2) of the *Motor Accident Injuries Act 2017* (NSW) provides that statutory benefits are not payable for the cost of treatment and care to the extent that it is not considered reasonable and necessary in the circumstances. Similarly, recent reforms to s 60 of the *Workers Compensation Act 1987* (NSW) have changed the basis for entitlement to medical benefits to a 'reasonable and necessary' test, which is a more demanding test than the previous 'reasonably necessary' test. These qualifications, coupled with the fact that the insurer has the capacity to dispute liability for treatment in the Personal Injury Commission in both schemes, provide a strong legislative disincentive for overservicing.

The need for greater communication between injury management consultants and medical providers

We suggest that the regulation of medical providers should consider how to ensure appropriate coordination and communication between injury management consultants (**IMCs**) and medical providers. Our members who represent insurers often engage IMCs, who are approved by SIRA, to assist in the coordination and return to work of claimants/workers in the schemes. In their experience, medical providers can sometimes be unwilling to engage with these consultants, which is often contrary to scheme objectives. At the same time, we acknowledge that there needs to be a mechanism by which IMCs are not making unreasonable requests of General Practitioners and other medical providers, which may drive further providers from the schemes. We suggest that it would therefore be useful for the Review to examine this issue, including the role of General Practitioners in the schemes.

The role of legal representatives in the schemes

The Discussion Paper notes increased healthcare expenditure across the Workers Compensation and CTP schemes which is attributed to a 'combination of increased active claims, alongside increased number of services per claim'.⁶ It draws on analysis by the Scheme actuary to conclude that 'expenditure growth is significantly higher for the legally-represented cohort, across all categories of injury severity'.⁷

We consider it important this data does not give rise to simplistic or misleading conclusions, such as that legal representation of claimants is not beneficial to the operation of the CTP and Workers Compensation schemes and that lawyers may be leading claimants to seek treatment which they do not need or to which they are not entitled.

We suggest that the increased expenditure for the legally-represented cohort is likely due to the fact these claimants have the benefit of professional legal advice around their eligibility to claim entitlements and challenge

⁶ Sue Dawson, Independent Reviewer, 'Regulating for impact: A review of health provider regulation within the NSW personal injury schemes', January 2026, 5: https://hdp-au-prod-app-nsw-haveyoursay-files.s3.ap-southeast-2.amazonaws.com/2917/6843/6059/Review-health-provider-reg-NSW_Discussion-paper.pdf.

⁷ Ibid.

denials to treatment, in line with the legislation governing the schemes. It is possible that claimants without the benefit of legal representation, for example, may be less likely to request an internal review of an insurer's decision on treatment matters. It is entirely appropriate for a lawyer to provide this advice to a client seeking assistance in navigating the schemes, noting that lawyers are required as part of their professional obligations under law to act in a client's best interests.⁸

We further suggest there is a need for improved education of injured persons in relation to their entitlement to treatment and rehabilitation following an accident. This should include their entitlement to continue to seek treatment from their existing medical provider, should they wish to do so, or to choose a new medical provider of their choice.

Increased education for health providers

The Law Society considers that an emphasis on the education of health providers treating injured people in the CTP and Workers Compensation schemes is important. In our members' experience, health providers who understand the requirements of the NSW CTP and workers compensation schemes provide more thorough reporting and are more engaged with insurers, legal representatives and rehabilitation providers. This increased engagement results in better insurer decision making, which in turn reduces disputes and has a positive effect on return to work rates.

As discussed above, our members note an increasing reluctance of health providers outside of specialised insurance medical clinics to take on patients within the NSW workers compensation and CTP schemes. This is a cause for concern as it means that injured people have to seek out a new health provider at a time when they are injured, need to pursue a compensation claim and adhere to legislative time constraints, while at the same time being under financial pressure due to being unable to work. We suggest that it would be useful for SIRA to engage with peak bodies such as the Australian Medical Association and the Australian Physiotherapy Association to improve the education, support and resources available to health providers as it will result in a positive impact on the operation of the schemes and return to work rates.

Thank you again for the opportunity to contribute. Should you have any further queries in relation to this submission, please contact Sophie Bathurst, A/ Head of Commercial and Advisory Law Reform, at (02) 9926 0285 or Sophie.Bathurst@lawsociety.com.au.

Yours sincerely,



Ronan MacSweeney
President

⁸ See *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*, Rule 4.1.1.