AUSTRALIAN MEDICAL ASSOCIATION
(SOUTH AUSTRALIA) INC.
ABN 91 028 693 268

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31 January 2023

Hon Connie Bonaros
Chair
Select Committee on the
Return to Work SA Scheme
Parliament House
GPO Box 572
Adelaide SA 5001

E: screturntowork@parliament.sa.gov.au

Dear Ms Bonaros

Re: AMA(SA) submission to the Return to Work SA Scheme review

On behalf of the Australian Medical Association in South Australia (AMA(SA)), thank you for the opportunity to respond to the call for submissions to your inquiry into and report on matters concerning the Return to Work SA scheme.

As you may have become aware during your inquiries to date, or may become apparent during the review and reporting period, AMA(SA) has a close and important relationship with Return to Work SA (RTWSA) and its leadership team. This partnership enables us to ensure the scheme and its operation continues to support the doctors who undertake assessments related to workers' injuries and rehabilitation, and, in turn, the patients who rely on doctor's clinically determined advice during their paths to recovery. The strength of this relationship is demonstrated by my being asked to chair the Stakeholder Representative Consultation Group that at the request of the Minister for Industrial Relations and Public Sector, the Hon Kyam Maher MLC, is currently co-designing a draft version of the Third Edition of the RTWSA Permanent Impairment Guidelines.

The Act and scheme management

In relation to the *Return to Work Act 2014*, it is our expectation that the Act continue to be the basis for objective, independent and reliable policy, protocols and procedures, both within Return to Work SA or its equivalent body and as applied by doctors, lawyers, insurers and other professionals involved in its application. For example, AMA(SA) members who regularly participate in assessments have reported to us concerns that assessments may be undertaken in a manner that contravenes the Act – that is, by telephone rather than in face-to-face consultations as proscribed in the Act. We are concerned that, depending on the injury or condition, a remote consultation may not be appropriate for a valid diagnosis and may contribute to an unsatisfactory and less than harmonious claim process, and the patient may suffer as a result.

Similarly, if the Scheme to be applied equally and fairly, our members suggest that the Act should clarify how pre-existing conditions are assessed and contribute to the assessment process, first in terms of liability for treatment, and then, separately, liability for residual disability and/or adverse outcomes, following treatment or otherwise.

Postal: PO Box 685 Fullarton SA 5065
Phone: (08) 8361 0100 Fax: (08) 8267 5349
Level 1 175 Fullarton Road, Dulwich SA 5065
Email: admin@amasa.org.au Web site: www.amasa.org.au

Another example of how the scheme may penalise patients from a case management perspective is the absence of a template for IME reporting. Our members have also noted that there are notable differences between requestors, at times within the same company, in the complexity and range of questions asked, so that the patient cannot rely on even this component of the process in hoping for a fair and equitable assessment and outcome.

Provisions relating to pure mental harm and psychiatric injuries

(d) The effectiveness of the provisions relating to pure mental harm/psychiatric injuries under the Impairment Assessment Guidelines

AMA SA continues to voice its concern about the ACT dealing differently between physical injuries and psychiatric ones. For example, the lack of financial compensation for a psychiatric injury is an example of clear discrimination. The provisions for Pure Mental Harm are complex. Most psychiatrists in SA prefer the GEPIC manner of psychiatric impairment, unlike the PIRS which relies on self-report largely rather than observation. Separating pure mental harm from consequential mental harm does seem to help in impairment assessment. The cut-off at 30 per cent is very high, and there is an observation by members that at 20 per cent an individual is unlikely to reengage in future work.

These are only some examples of how the Act, if incorrectly applied in practice, may and does affect the assessment process and, in turn, the patient's claim – including in contributing to delays that may themselves affect treatment and outcomes. As clinicians, we advocate for the safe rehabilitation of every patient, each of whom must be able to rely on a fair, objective and evidence-based analysis of their condition and its existing and possible impacts on future work opportunities and performance.

Should you wish us to provide more information or clarify any issue, please contact me via my Executive Assistant, Mrs Claudia Baccanello, on 8361 0109 or at president@amasa.org.au at any time.

Yours sincerely

Dr Michelle Atchison
BM BS FRANZCP GDipArtHist

President, Australian Medical Association (SA)