

Workers Rehabilitation and Compensation Amendment Bill 2016

Wednesday 16 August 2017 0930

BACKGROUND

- Organisations involved in briefing:
 - Tasmanian Association of Vocational Rehabilitation Providers - professional body for Workplace Rehabilitation Providers – occupational therapists, psychologists, physiotherapists, rehabilitation counselors, exercise physiologists and nurses who provide professional return to work services;
 - Australasian Faculty of Occupational & Environmental Medicine - professional body for Occupational Physicians;
 - Australian Medical Association; and
 - Royal Australian College of General Practitioners
- With input from;
 - Australian Psychological Society;
 - Australian Physiotherapy Association; and
 - Australian College of Nursing
- Rationale
 - No previous input from health organisations about this piece of legislation
 - TAVRP Symposium Evidence

MAIN POINTS

- There is broad support from health professional organisations for the Government's amendment legislation to modernize the WorkCover Board and to remove any unnecessary bureaucratic requirements i.e. the Government's Red-Tape Reduction initiatives.
- Most importantly, we support a smaller 'skill-based' Board appointed by the minister with each member having voting rights. A skilled and responsive Board is the key to guiding improvements and innovation for Tasmania's Workers Rehabilitation and Compensation System.
- It is important that the legislation be enacted as soon as possible and we do not wish to hinder the legislative process.
- However, the organisations involved would like to flag areas to improve the amendment legislation to contribute to a more effective and fair compensation system, i.e. to achieve better health outcomes for those injured at work and encourage engagement by health professionals
- Potential improvements fall into three categories:
 - WorkCover Board
More detail about the expertise required and the appointment process
 - Accreditation Issues
Medical Practitioner and Workplace Rehabilitation Provider accreditation
 - Licensing Provisions
Risks associated with relaxation of licensing requirements

Peter Sharman (AFOEM), Ian Almond (RACGP) and Hilton Francis (AMA) will discuss the Board Appointment and Medical Accreditation issues. Angela Kerrison-Smith (TAVRP) will discuss the risks associated with relaxation of licensing requirements and accreditation issues for Workplace Rehabilitation Providers

Workers Rehabilitation and Compensation Amendment Bill 66 of 2016

Amendments relating to appointments to the WorkCover Board

The organisations represented above support a smaller 'skill-based' Board appointed by the minister with each member having voting rights as currently proposed.

A skilled and responsive Board is the key to guiding improvements and innovation for Tasmania's Workers Rehabilitation and Compensation System.

There is however a need for more detail (either in the legislation itself or associated regulations) about the expertise required and the process to appoint Board Members. This would ensure the right mix of skills, including a health professional skilled and knowledgeable in 'compensation health' and a clearly defined and transparent appointment process that would ensure an apolitical Board and would protect the Minister if appointments are challenged.

We also question whether the Board Chair should automatically be the Secretary of the relevant Department.

Workers Rehabilitation and Compensation Amendment Bill 66 of 2016

Accreditation of Medical Practitioners

Tasmania is unique in requiring accreditation of Medical Practitioners.

Accreditation is a 'vexed' issue for the medical profession. It is accepted by most medical practitioners that the current system is meaningless and doesn't add value. Perhaps its only current value is as a listing of doctors for WorkCover for communication purposes. We are not aware of the current accreditation mechanism being used to revoke a doctor's ability to treat compensation cases. The current accreditation requirement creates a bureaucratic barrier for some doctor's participation in worker's compensation, hence AMA support for its removal.

It is widely recognized that workers' compensation is a complex area of practice for doctors. There is little, if any, formal training provided in these complexities in Medical Schools or in the General Practice or Specialist training programmes. Most of the learning comes 'on the job' and the training GP's receive is how to function in a system that doesn't work very well, particularly for complex cases. There is a clear need for structured education and training for doctors who choose to treat compensation patients, as follows:

- Complexities created by compensation,
- Important role for communication (particularly accurate certification),
- The AFOEM 'Health Benefits of Good Work'
- Specific requirement of Tasmania's Scheme.

There are more questions than answers on this issue:

- Is this need for Education and Training best met as a part of a more stringent accreditation process for medical practitioners?
- Should there be different categories of accreditation i.e. involvement in complex cases, IME accreditation, in addition to current categories?
- Can a meaningful and rigorous accreditation process be put in place without alienating significant numbers of doctors where workers' compensation is only a small proportion of their practice?
- Should the focus be on accrediting only a smaller number of informed, interested and capable providers, or more broadly for most general practitioners?

A lot more work needs to be done on this issue and that can't be done in the timeframe imposed by the need for enactment of this amendment legislation. SafeWork Australia currently has a Working Group considering the best approach to GP engagement in Return to Work. The outcome of this work needs to be considered.

Doctors don't believe it will make much practical difference to the operation of the scheme if the current accreditation scheme is retained or abolished, except it is clear that accreditation of Impairment Assessors cannot be revoked as it is linked to completion of specific training in the complex area of WPI assessment.

Looking properly at this issue is a job for the new WorkCover Board.

Accreditation of Rehabilitation Providers:

TAVRP has fought diligently for accreditation, due to its members being of many different Allied Health backgrounds, but common to the Vocational Rehabilitation Industry. Most of the "direct" Professional Associations have ethical standards that relate to clinical practice, not necessarily to cover practice in the Work Rehabilitation sector.

We support the proposed amendment to Section 77C.

TAVRP are particularly interested in SubSection 1B the "Board's requirements for accreditation". There is a need for more detail regarding the proposed tool to determine the applicant's satisfaction of requirements.

TAVRP welcomed the accreditation process that provides greater scrutiny of practice and required minimum qualifications. The Act includes a unique role of "Injury Management Consultant (IMC)". TAVRP is keen to ensure professional standards are maintained and that, this same requirement is also applied to the IMC role, due to the overlap of the roles.

TAVRP does not support removal of the three-yearly renewal of accreditation process (Amendment to Section 77D).

However, if passed, in its absence, a specific regulation, guideline or process would be necessary to accommodate data updating/ changes requirement; audit; review; governance structure; whistleblowing; and complaint system to maintain professional standards for Providers and IMC's and ensure protection for injured workers in Tasmania.

Insurer Licencing

Repeal of Section 108 of the Act would result in removal of the requirement for insurers to have their licence reviewed every three years. We do not support the removal of this requirement.

An insurer's licence gives the Insurer/Self-Insurer and the Tasmanian State Service (TSS) the 'right to practice'. The Minister could be held liable for any issues that arise. Statutory Regulations would provide protection for the Minister, with a defined set of standards that the parties can be accountable to.

The PricewaterhouseCoopers (PWC) "Scheme Review to 30 June 2016 – WorkCover Tasmania" Report provides an actuarial analysis of scheme operation and performance.

There is a trend towards an increase in the number of claims involving dispute in all sectors, (Licenced insurers / Self Insurers and TSS), with the largest increase in the Licenced Insurer sector, despite an overall reduction in the total number of claims in the scheme. Additionally, the number of above excess claims trend has grown and is projected to increase further. Claim size has also increased, possibly indicating more complicated injuries or less efficient processes. Interestingly the claims cost on average per claim, is increasing overall with the TSS the greatest of the three and Self-Insurers with the least overall.

The removal of licensing renewal requirements along with the revocation of Section 102A regarding reporting of industry rates would limit WorkCover's oversight of the actual practices of insurers and the impact on the Injured Worker, their recovery, treatment and management by key stakeholders under the Scheme.

Removal of the oversight provided by the current three-yearly licence renewal would seem to be shortsighted given the evidence of increasing claims costs and the number of disputes evident from the PWC report.

In the absence of a legislated three-yearly licence renewal process, there would be a need for a Statutory Regulation or similar, to set out the processes to review compliance with industry standards, make provision for audits and complaint processes, governance structures and whistleblowing processes.