

WORKERS COMPENSATION COMMISSION

APPROVED MEDICAL SPECIALIST CODE OF CONDUCT

This Code governs the conduct of persons appointed by the President of the Workers Compensation Commission ('the Commission') as Approved Medical Specialists pursuant to Section 320 of the *Workplace Injury Management and Workers Compensation Act* 1998.

PURPOSE

This Code seeks to guide Approved Medical Specialists in carrying out their duties in a manner that is consistent with the objectives of the Commission and to assist them:

- identify and resolve ethical disputes,
- ensure the highest standards of conduct in their relationship with the parties, and
- maintain appropriate standards of professional performance.

Approved Medical Specialists are referred to *A Guide to Standards of Conduct for Tribunal Members* (Administrative Review Council), and the WorkCover Medical Assessment Guidelines for further information.

Compliance with this Code is a term of the *Terms and Conditions of Appointment of Approved Medical Specialists* (September 2009). Breaches of the Code may result in revocation of an Approved Medical Specialist's appointment.

COMPLIANCE WITH COMMISSION OBJECTIVES

Approved Medical Specialists must act in accordance with the objectives of the Workers Compensation Commission as set out in Section 367 of *Workplace Injury Management and Workers Compensation Act* 1998. To this end, they must work with the staff and other Members of the Commission to provide:

- a fair and cost effective system for the resolution of disputes,
- a timely service, so as to ensure that worker's entitlements are determined promptly,
- a dispute resolution service that meets worker and employer expectations in relation to accessibility, approachability and professionalism, and
- an independent dispute resolution service that is effective in settling matters and leads to durable agreements between the parties in accordance with the Workers Compensation Acts.

Complaints in relation to Approved Medical Specialists will be dealt with as outlined in the Commission's Access and Equity Service Charter.

GENERAL RESPONSIBILITIES

Approved Medical Specialists have the following general responsibilities:

- to uphold the highest standards of integrity and honesty and to act ethically in accordance with the law,
- to ensure fairness, and timeliness in the performance of their duties,
- to remain independent from the parties involved in the matter before them,

- to maintain the highest professional standards, in particular by continuing to improve and develop their professional knowledge and skills, and
- to uphold the integrity and reputation of the Commission at all times. To this end, Approved Medical Specialists must refrain from engaging in activities, or expressing opinions that might diminish the standing of the Commission or compromise their ability to deal with a specific case.

FAIRNESS

In exercising their powers, Approved Medical Specialists should:

- ensure that assessments are conducted in a manner that is transparent and seen to be fair,
- abide by principles of procedural fairness,
- ensure that decisions are made according to law, and based on relevant and logically probative information,
- treat the parties involved with respect and courtesy,
- take into consideration any special needs, such as language, cultural background, literacy or disability, and
- act without bias and in a way that does not give rise to an apprehension of bias in the performance of their responsibilities.

ACCOUNTABILITY AND TRANSPARENCY

In exercising their powers, Approved Medical Specialists should:

- be as open as possible about all decisions and action (including lack of action) taken in the performance of their responsibilities,
- conduct assessments and make decisions with due rigour, diligence and intellectual honesty,
- be accountable for their decisions and actions, and fully participate in all scrutiny regimes (including legislative and administrative scrutiny), and
- regularly review and evaluate their own performance and capacity as an Approved Medical Specialist.

INDEPENDENCE

An Approved Medical Specialist should perform their responsibilities independently and free from influence external to assessment proceedings.

INTEGRITY

In exercising their powers, Approved Medical Specialists should:

- act honestly and truthfully in the performance of their responsibilities,
- not knowingly take advantage of, or benefit from, information not generally available to the public obtained in the course of performing their responsibilities,
- not use their position as an Approved Medical Specialist to improperly obtain, or seek to obtain, benefits, preferential treatment or advantage for the Approved Medical Specialist or for any other person or body,
- be scrupulous in the use of Commission resources,
- behave in a way that upholds the integrity and good reputation of the Approved Medical Specialist in both their professional and private life, and
- Not accept gifts or benefits,

RESPECT FOR PERSONS AND PRIVACY

In exercising their powers, Approved Medical Specialists should:

- be patient, dignified, and courteous to injured workers, and respect their personal privacy, and require similar behavior of those subject to their direction and control,
- be patient, dignified and courteous to any others with whom the Approved Medical Specialist deals in the performance of their functions, and require similar behavior of those subject to their direction and control,
- endeavour to understand and be sensitive to the needs of persons involved in proceedings before the Commission, and take into consideration any special needs, such as language, cultural background, literacy or disability,
- respect the confidentiality of the matters that are referred for assessment, and
- be respectful and courteous when commenting on the opinions of other clinicians.

AVOIDANCE OF CONFLICT OF INTEREST

Approved Medical Specialists should, at the earliest opportunity, advise the Registrar of the Commission and the parties (where necessary) of any actual or perceived conflict of interest that may prevent them from performing their functions. This includes any factor that may give rise to a reasonable apprehension of bias by a party to the proceedings.

Approved Medical Specialists should:

- not accept a referral to assess any person with whom they have, or may be perceived to have, a conflict of interest, including referrals of any person whom they have previously treated or medically assessed or with whom they have been previously acquainted where a perception of bias may be arise,
- have regard to the potential impact of activities, interests and associations in their private life on the impartial and effective performance of their responsibilities as an Approved Medical Specialist,
- not provide a medico-legal report where such report has been sought for the purpose of providing a critique of a Medical Assessment Certificate of an Approved Medical Specialist.

From time to time workers may bring a further Application to the Commission seeking additional lump sum compensation as a result of an alleged deterioration of a condition that has previously been the subject of a medical assessment by an Approved Medical Specialist. Wherever possible, the Commission will refer the worker back to the Approved Medical Specialist who made the initial assessment. It is therefore recommended that:

- Approved Medical Specialists not accept a referral from parties to provide an assessment, as an independent medical expert, where they have previously assessed a worker in their capacity as an Approved Medical Specialist for the Commission.

MEDIA AND PUBLIC COMMENT

- Approved Medical Specialists may not provide comment to the media on matters that are before them or have been dealt with by them.
- If an Approved Medical Specialist is involved in providing comment to the media on a matter unrelated to their responsibilities as an Approved Medical Specialist,

they should not identify themselves as an Approved Medical Specialist or, if necessary, clarify that they are not commenting in their capacity as an Approved Medical Specialist

- If an Approved Medical Specialist accepts an invitation to speak at a public forum, they should not identify themselves as an Approved Medical Specialist or, if necessary, clarify that they are not commenting in their capacity as an Approved Medical Specialist.

PROFESSIONAL STANDARDS

Approved Medical Specialists should:

- regularly review their performance to ensure that they are able to meet the objectives of the Commission,
- co-operate fully, as required, with performance evaluations conducted by the Commission,
- take reasonable steps to maintain and to enhance the knowledge, skills and personal attributes necessary for the effective performance of their responsibilities,
- undertake continuing training, where necessary, in order to function in the electronic environment established by the Commission,
- participate in any training programs provided by the Commission,
- maintain up-to-date knowledge with respect to the NSW workers compensation law as it applies to the role of Approved Medical Specialist, and
- ensure that, wherever possible, decisions are consistent with decisions of the Supreme Court, and Medical Appeal Panels.

His Honour Judge Gregory Keating
President

Ms Sian Leathem
Registrar

24 November 2009