



The
MEDICAL PROFESSION
and the **TREATMENT of**
WORK RELATED

No job is more important.



An initiative of
the Workplace Safety Board of Tasmania
and Workplace Standards Tasmania

INJURY *and* **ILLNESS**

Endorsed by:

The Australian Medical Association
Royal Australian College of General Practitioners
Division of General Practice
August 2000

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A previous version of this document entitled Managing Work Related Injury and Illness - Guidelines for the Medical Profession was produced in 1991 by the Workers' Compensation Board of Tasmania in conjunction with the AMA.

A revised edition was produced by the Workplace Safety Board of Tasmania and endorsed by the AMA, RACGP and the Division of General Practitioners in April 1997.

This edition has been revised again by staff at Workplace Standards Tasmania in an effort to further clarify the advice given in view of experience since the earlier edition.

August 2000

1. THE INJURED WORKER

- 1.1 The worker has the right to select, or subsequently change, their treating doctor. They may be influenced in this selection by their friends, family, unions, employers and insurers, other health service providers or by their own previous experiences.
- 1.2 The worker, when completing the Worker's Claim for Compensation for their employer, must provide basic information about their injury or illness. They should provide the same information to the treating doctor who will complete the initial medical certificate.
- 1.3 The worker has the right to be consulted about the management of their injury and subsequent return to work. They may agree to have their interests protected and represented by other participants in the system such as the treating doctor, the rehabilitation co-ordinator or a vocational rehabilitation provider. Such delegation of their interests should be indicated by their signed authority.
- 1.4 The worker can be directed by his/her employer (or insurer), at risk of suspension of his or her compensation benefits if not co-operating, to be examined, for assessment purposes only, by a doctor not of the worker's choice, but not more frequently than once every two weeks.
- 1.5 If after being examined by a medical practitioner, not of his/her choice, the worker refuses to undertake recommended ongoing treatment, or surgical treatment, their compensation benefits may be suspended.
- 1.6 The worker can be directed by their employer (or the insurer) to participate in a rehabilitation program and/or suitable alternative duties which may be included in a return-to-work plan decided by their employer and health service providers. The worker may lose their income replacement benefits if they refuse to do so.
- 1.7 The worker has access to the Workers' Rehabilitation and Compensation Tribunal for early resolution of any dispute that may arise.
- 1.8 The worker has access to compensation, in addition to their rights under the *Workers Rehabilitation and Compensation Act 1988*, by undertaking a successful common law action.

2. THE TREATING DOCTOR AND MEDICAL SPECIALISTS

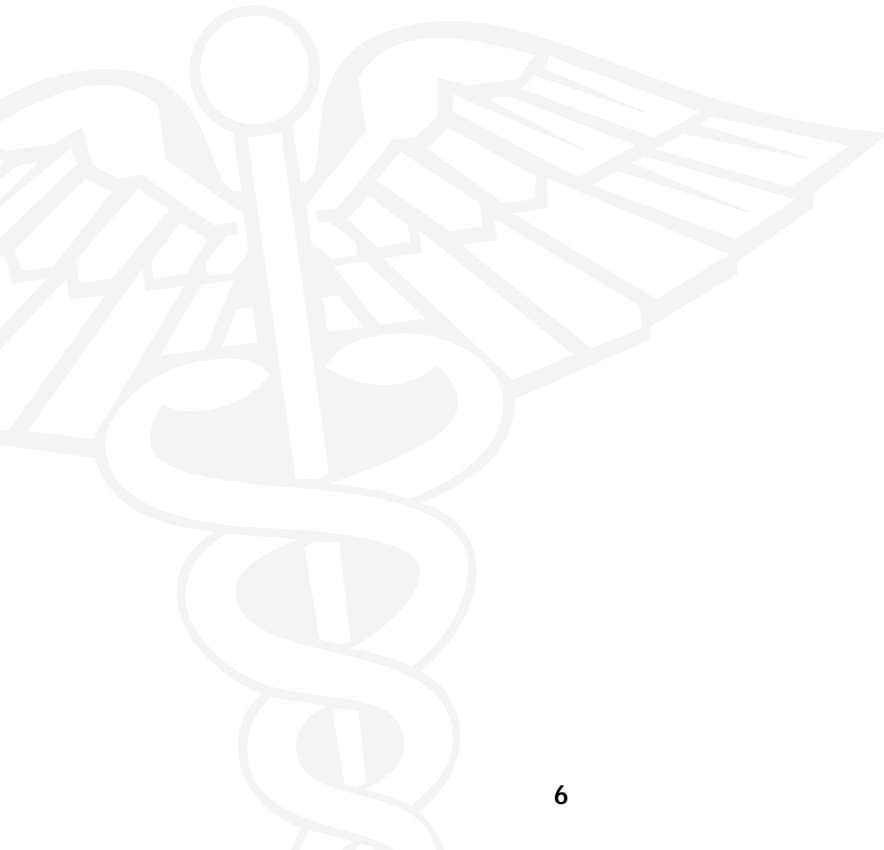
- 2.1 Medical practitioners who provide certificates under the legislation must be accredited by the Workplace Safety Board of Tasmania.
- 2.2 The treating doctor must provide information requested in the Workers Compensation Medical Certificate. See APPENDIX 1 for more detailed notes on the medical certificate.
- 2.3 Primary medical care and the co-ordination of specialist medical care is the province of the general practitioner. In urgent cases, an accident and emergency department may provide initial treatment, but is not suitable for ongoing care. A worker requiring continuing medical care who does not have a general practitioner should be encouraged to consult one.
- 2.4 Specialist medical care is usually available only after a referral from a primary medical attendant, either the worker's general practitioner or an accident and emergency department. The injured worker should be referred back to their preferred General Practitioner as soon as practicable.
- 2.5 Several specialists may be involved in the care of any worker. Subject to urgent medical requirements, the injured worker's general practitioner should be consulted regarding the need for and selection of additional specialist care.
- 2.6 If more than one specialist is involved, each should regularly report to the general practitioner in addition to communicating with each other.
- 2.7 Notes made by a doctor in his/her private rooms are normally intended purely as an aide memoir. They are not intended for medico-legal purposes and they may contain confidential, sensitive information not intended for further dissemination. In workers' compensation cases (and in some other cases), prudent doctors will keep detailed and contemporaneous records of observations and other relevant information obtained at each consultation with the worker. This requirement may necessitate longer and more frequent consultations than would otherwise be the case.
- 2.8 Notes made by doctors in hospital records are usually intended as a form of communication to others involved in the medical care of the injured worker. The comments in paragraph 2.6 apply equally to hospital case notes.
- 2.9 Letters from one doctor to another and to other health service providers involved in the care of work related injury or illness should be honestly and carefully expressed in terms that should not seriously affect the doctor/worker relationship if the worker became aware of the contents. The letter-writer should be extended the courtesy of a request by the recipient for permission to disclose the contents of the letter if he/she intends to do so. The writer should be aware that his/her veto might not prevent the eventual disclosure of the contents of the letter to other participants, including the injured worker.

- 2.10 The treating doctor, when asked for information by an employer, insurer or by another health service provider, is obliged to respond to the request in an appropriate and helpful way. Before doing so he/she should:
- establish that the request for information is made with the appropriate authority
 - determine the purpose to which the information will be put (so as to determine if that information is relevant)
 - inquire in what form the information would be preferred.
 - * See also paragraphs 2.11 (next) and 5.2.
- 2.11 The treating doctor, as a result of his/her inquiries, may decide the most appropriate and helpful response is to:
- provide a written report
 - suggest a consultation with the injured worker
 - suggest a consultation with the worker and another health service provider.
 - * See also APPENDIX 2 and APPENDIX 3 which are examples of the sort of information an insurer may request and the doctor provide.
- 2.12 The non-treating doctor who has seen the worker at the request of the treating doctor (and/or worker) is not obliged to provide information directly to the employer, insurer or other health service provider when requested to do so.
- 2.13 The non-treating doctor might quite properly suggest that the information be sought from the treating doctor. If, for some special reason, he/she does provide a report he/she should also send a copy to the treating doctor. Before providing the report he/she should satisfy himself in regard to the points made in paragraph 2.9 above.
- 2.14 A doctor who has not seen the injured worker may be requested by the employer or insurer to do so. The doctor is under no obligation to agree to this request, but may be prepared to do so in many cases. Before agreeing, he/she should determine:
- whether the request is for treatment or for the purpose of examination and report only
 - whether the request is made with the knowledge and agreement of the treating doctor
 - that the ensuing report would be made available to the treating doctor
 - the use to which the report would be put by the employer/insurer.
 - * Comments in paragraphs 2.10 and 5.2 also apply.
- 2.15 Charges for services by medical practitioners are limited to fee levels set by the Australian Medical Association and applying at the date the treatment is provided, and must not exceed the normal practice charge for that service.

3. REHABILITATION, VOCATIONAL REHABILITATION AND ITS PROVIDERS

- 3.1 The consequences of injury and illness, whether work-related or not, may be impairment, disability and handicap.
- 3.2 Medical treatment, which is management of impairment and its associated abnormality of structure and function, is traditionally the domain of doctors, nurses, dentists, physiotherapists and pharmacists.
- 3.3 Rehabilitation, which is the management of disability and handicap, and the associated activity restrictions and disadvantages preventing the injured person from fulfilling his/her normal role in society, may demand skills not necessarily possessed by the traditional health service providers.
- 3.4 In Tasmania, this has been recognised and Statutory Authorities have been established to register individuals claiming special skills in clinical psychology, chiropractic, podiatry, radiography and optics.
- 3.5 Vocational Rehabilitation, specifically, is the management of disability and handicap, with their associated activity restrictions and disadvantages preventing the injured worker from continuing in or returning to his/her pre-injury work or to other suitable duties.
- 3.6 Medical treatment, rehabilitation and vocational rehabilitation are overlapping components of a continuing process of management, requiring intervention of varying degrees of complexity. Ideally, all components should be co-ordinated or even, in simple cases, provided by the treating doctor.
- 3.7 Specialised vocational rehabilitation assistance will not be required in all cases. The severity and nature of the injury together with the length of likely absence from work will determine the type of rehabilitation assistance required.
- 3.8 In complex cases, consultation with individuals possessing additional skills should be freely sought by the treating doctor.
- 3.9 In cases where referral for specialist vocational rehabilitation is considered appropriate, consultation with the insurer and/or employer should precede referral. This is to ensure that the costs associated with the referral will be met by the employer's workers' compensation insurer.
- 3.10 The *Workers Rehabilitation and Compensation Act 1988* requires the employer to provide a return-to-work plan created for each injured worker who is, or is likely to be, off work for fourteen or more days. This plan must be completed as soon as possible, but not later than 5 days from the expiration of the 14-day period.

- 3.11 Employers have become accustomed to delegating the responsibility of developing and implementing this return-to-work plan to the insurer or Vocational Rehabilitation Provider. Not all Insurers have staff qualified to do this within their organisations and written plans have often not been forthcoming from the treating doctor.
- 3.12 The treating doctor should, in many cases, be able to provide this plan for the employer (or insurer), but if he/she is not able to do so, he/she should either consult with a health service provider who is prepared and qualified to do so, or co-operate with a person nominated by the insurer or the employer. The worker should be involved
- 3.13 The Australian Medical Association, the Australian Physiotherapists Association, and the Tasmanian Association of Vocational Rehabilitation Providers will provide lists of the names and addresses of qualified individuals prepared to provide this service.



4. THE EMPLOYER AND THE REHABILITATION CO-ORDINATOR

- 4.1 The employer must inform all employees of procedures related to the compensation for work injuries and the rehabilitation policy that is in place for that workplace. If there are more than 20 employees a written rehabilitation policy must be prepared and displayed in the workplace. This policy must be prepared in accordance with the criterion laid down by the Workplace Safety Board of Tasmania.
- 4.2 The employer has the right to arrange for a medical examination of an employee at any reasonable time and place of which the employee has received reasonable notice, but not more often than once every two weeks.
- 4.3 The employer may nominate a Rehabilitation Co-ordinator. The role of the Rehabilitation Co-ordinator may, in some circumstances, be a nominal one. The co-ordinator may be identified within any section of the organisation or contracted from outside e.g. a private provider or the treating doctor. This nominated individual should have the support of management, workers and unions (if represented in the workforce).
- 4.4 The employer or the nominated delegate (e.g. Rehabilitation Co-ordinator) may expect and arrange for significant progress reports relevant to the rehabilitation program from medical practitioners and other health service providers.
- 4.5 The employer/rehabilitation co-ordinator will be an effective communicator and be able to liaise with:
 - workers
 - unions
 - employers
 - supervisors
 - rehabilitation providers
 - insurance companies
 - government agencies
 - medical practitioners
 - safety representatives.
- 4.6 The Rehabilitation Co-ordinator will co-ordinate the injured worker's return-to-work plan. Subject to work practices, this may include:
 - assisting the injured/diseased worker fill in a claim form
 - organising the injured/diseased worker to see a doctor, nurse, first aid
 - facilitating any pay arrangements

- notifying the relevant union (if represented in the workplace)
- co-ordinating the return to work plan which may include referral to a rehabilitation provider
- liaison with the treating doctor/rehabilitation provider to ensure that appropriate duties are chosen to facilitate a successful and graded return to work
- assisting management to minimise delay in the availability of return to work duties as recommended by the treating doctor/rehabilitation provider
- developing an ongoing awareness of what meaningful alternative duties are available in the workplace for the implementation of rehabilitation
- ensuring that consultation with the employee is ongoing and regular, to monitor progress and to avoid any aggravation of the injury or illness
- preparing written progress reports on return-to-work plans.

4.7 The employer, in conjunction with the Rehabilitation Co-ordinator, the treating doctor and the injured worker, should identify suitable alternative duties and prepare a return-to-work plan if the injury lasts more than 14 days.

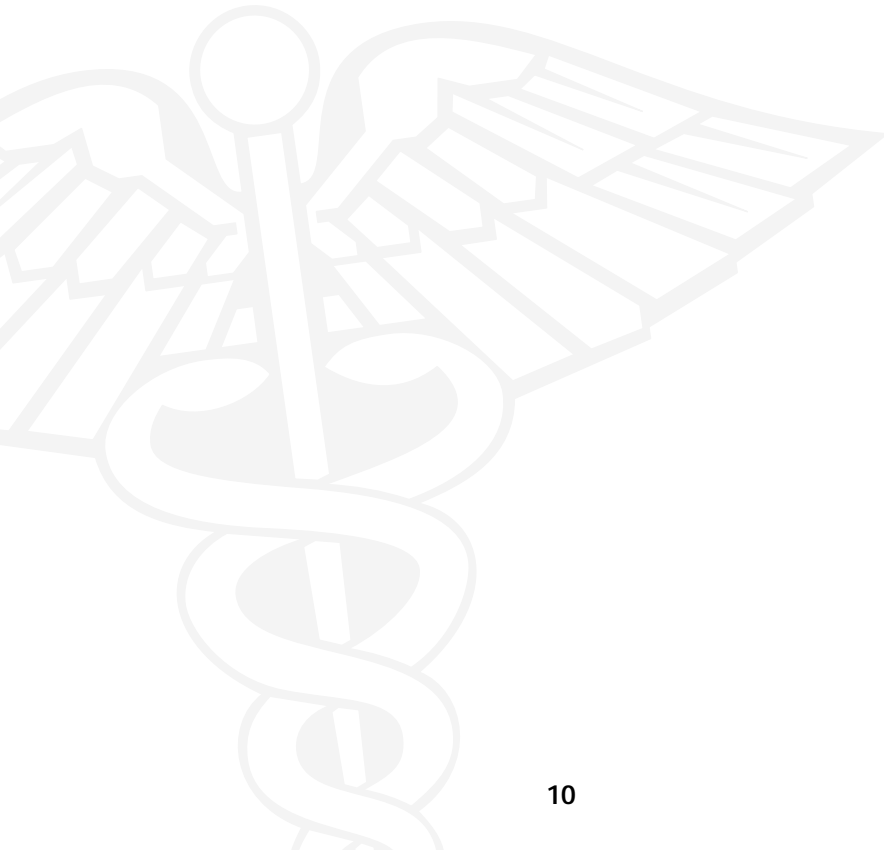


5. THE INSURER AND SELF-INSURER

- 5.1 All employers are required either to maintain an insurance policy with a licensed insurer indemnifying them against liabilities arising from work injuries and diseases covered by the Act, and by common law or to have a permit as a self-insurer.
- 5.2 The insurer (or the employer) may require information from the doctor for many reasons including:
 - the preparation of statistical and management reports
 - the implementation of preventative measures in the workplace
 - the creation of a rehabilitation program by another health service provider, often, a vocational rehabilitation provider, if the program was not otherwise forthcoming
 - for medico-legal purposes.
- 5.3 Insurers are required to provide to the Workplace Safety Board of Tasmania detailed statistical information regarding their premium income from workers' compensation business, the rates of premiums charged, the cost of workers' compensation and common law claims. Self-insurers are also required to provide similar details.
- 5.4 Self-insurers and insurers supply to Workplace Standards Tasmania a copy of the Employer Report section of each workers' compensation claim received from the employer

6. THE WORKPLACE SAFETY BOARD AND THE TRIBUNAL

- 6.1 In the event of any difficulty or disputation arising between any participants, but particularly if between the employer and employee, each participant has the right to apply to the Tribunal to determine the dispute.
- 6.2 Advice on dispute resolution may be obtained by contacting the Workers' Rehabilitation and Compensation Tribunal, 169 Liverpool Street, Hobart 7000. Phone (03) 6233 4697.
- 6.3 General advice on entitlements, obligations and rehabilitation may be obtained by contacting Workplace Standards Tasmania's Helpline, 30 Gordons Hill Road, Rosny Park 7018. Phone 1300 366 322 (toll free in Tasmania) or (03) 6233 7657 if outside Tasmania.



7. THE LAWYER

7.1 Lawyers actively:

- advise any party regarding disputed facts or difficult points of law
- seeking and providing representation of a party at a Tribunal hearing
- initiate common law action for the injured worker.

APPENDIX 1 - THE MEDICAL CERTIFICATE

- 1.1 The Workers Compensation Medical Certificate is in triplicate, the first copy is for the employer, the second copy for the worker and the third copy is to be retained by the doctor.
- 1.2 Minor injuries may require only one certificate during the course of the disorder. More complicated or prolonged illnesses may require the completion of several certificates. The treating doctor is obliged to provide a medical certificate in all cases of industrial injury, whether or not the worker needs to be absent from work. The information provided must be based on the history provided by the worker as well as on his/her own observations. It should be expressed, as unambiguously as possible, in descriptive rather than technical terms. This information is crucial to the employer's decision to accept or dispute a marginal claim.
- 1.3 A disability is a restriction or limitation of activity, and creates a handicap for the worker to overcome if he/she is to continue in the workplace. This disability should, if possible, be distinguished from the restrictions and limitations arising from the acute injury or illness, but the distinction may not become apparent until several weeks after the acute event. The identification of a disability is an important step in the development of a vocational rehabilitation program. (See also paragraph 3.10).
- 1.4 The determination of fitness for work may entail a simple or extremely complex process. The decision by the treating doctor to certify unfitness for work should never be made lightly, even in simple injuries for a short period of time. In more complicated injuries, with the likelihood of long-term disability the certificate provides space for the identification by the primary care doctor of other health care providers whose assistance he/she has requested. When the initial certificate is completed by a specialist, as the treating doctor, he/she should also endeavour to identify and name on the certificate the preferred GP, to whom the worker should be referred back to as soon as practicable.
- 1.5 The number of days the injured worker is initially certified as unfit for work is used by the insurer as a gauge of the severity of the injury. If the subsequent course of the injury varies significantly from the initial estimate then some comment should be provided in the amending certificate and consideration be given to completing a Form 2.
- 1.6 The employer or insurer are likely not to accept liability for a claim until they are sure the claim is work related or if the diagnosis is anyway doubtful. It may be prudent for the treating doctor to consider seeking a written report from an appropriate specialist to support the worker's claim if the diagnosis is not deferred. Treating doctors are required to make either a provisional or final diagnosis on the initial and subsequent certificates.

APPENDIX 2 - THE INSURER'S LETTER REQUESTING INFORMATION

- 1.1 The insurer's letter of referral to the treating or specialist doctor might contain:
 - a description of the client by name, occupation, address
 - a brief description of the circumstances in which the worker was injured
 - a general description of the injuries sustained
 - copies of relevant medical certificates and medical reports obtained by the insurer from other sources
 - a general description of the disabilities from which the client continues to suffer
 - when appropriate, the doctor should be asked to specifically respond to those questions which are of importance to the insurer
 - questions which should be brief and specific to the particular claim
 - reasons as to why the particular facts are required, and where applicable, any time deadlines should be detailed.
- 1.2 Upon receipt of a request for a medical report, relating to the current situation, and a copy of the authority signed by the worker, the doctor should supply the report within a reasonable time and attempt to meet any reasonable deadline. If the doctor feels that there are good reasons for not supplying the report he/she should promptly inform the insurer of his/her view and the reasons why he/she does not propose to provide the report. See also paragraphs 2.9 to 2.13.

APPENDIX 3 - THE DOCTOR'S REPORT

1.1 An informative, helpful report should include the following:

- the worker's age, sex, domestic status, occupation and other background information
- the worker's history in so far as it is relevant to the report
- the worker's present symptoms (that is, what the worker complains of)
- the clinical findings (that is, what the doctor observes and concludes about the worker's injuries)
- the results of any special diagnostic tests such as x-rays, pathology or ECG
- an interpretation of special tests
- a provisional or where possible final diagnosis
- an opinion about whether it is probable that the incident caused the injuries or that the occupation substantially contributed to the disease
- whether or not the worker's condition has stabilised. If not, when it is expected to stabilise (if at all) and if there is likely to be an improvement or deterioration, in the worker's condition
- is there a residual disability? If so, what is the nature and extent of the disability?
- is any further medical treatment advised? If so, provide details of the treatment advised, the probable outcome, an estimate of the cost of the treatment, the time that the worker will be hospitalised and the time the worker will be unfit for work
- is the worker fit for the work they were doing prior to the accident? If not, is the worker totally fit for any kind of work and, if so, the nature and extent of that work
- is there a pre-existing disease or condition that was aggravated by the accident? If so, what was the nature of the pre-existing disease or condition and the extent to which it has been aggravated?
 - is the present condition a recurrence of an injury or illness which the worker has previously experienced?

1.2 Obviously all of the above information will not be required in every case. The list is not intended to be exhaustive or mandatory. It is a matter of communication and common sense on the part of advisers as to what is necessary for the proper management of the case at hand. The more precise the letter of instruction to the doctor, the better the doctor will be able to appreciate what is required in the report.

1.3 Doctors should attempt to provide reports which are accurate, timely, comprehensive, fair and expressed in descriptive, narrative terms.

- 1.4 A report which does not address the insurer's letter or which is terse, uninformative, lacking in detail or ambiguous may well be detrimental to the interests of the worker and certainly to the interests of the doctor. It will increase the likelihood of the doctor being:
- asked to supplement or clarify the report
 - involved in a dispute involving other participants
 - summoned to appear before the Tribunal
 - less in demand for his/her future services.
- 1.5 The doctor should refrain from expressing an opinion on matters about which the doctor is not qualified to express an opinion.
- 1.6 Unless the worker's written consent and the insurer's agreement are obtained, a worker referred by an insurer to a doctor for the specific purpose of obtaining a report should not be the subject of further special examination or treatment. The doctor should be prepared to accept and make do with x-rays, pathology reports and other reports made available by the worker or the referring insurer. If the doctor considers further investigation appropriate he/she should ring and seek the insurer's approval - not only to the extra tests but also as to payment of fees associated with the extra tests.
- 1.7 It is unhelpful to the worker, unethical and improper for any doctor, but particularly if he/she is not the treating doctor, to express an opinion directly to the worker adversely criticising the management of the case. If he/she has any particular concerns regarding some aspects of the case he/she should contact the treating doctor. He/she should inform the worker and the insurer that he/she is doing so without giving any details. A copy of his/her final report should be made available to the treating doctor.

FOR MORE INFORMATION CONTACT:

WORKPLACE STANDARDS TASMANIA

HOBART

30 Gordons Hill Rd (PO Box 56)
Rosny Park 7018 Tasmania
(Ausdoc DX 70415 Rosny)

LAUNCESTON

Henty House, 1 Civic Square
Launceston 7250 Tasmania

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Reece House, 46 Mount St (PO Box 287)
Burnie 7320 Tasmania

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