



New South Wales

State Insurance and Care Governance Amendment Regulation 2022

under the

State Insurance and Care Governance Act 2015

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *State Insurance and Care Governance Act 2015*.

VICTOR DOMINELLO, MP
Minister for Customer Service and Digital Government

Explanatory note

The objects of this Regulation are as follows—

- (a) to prescribe the relevant service providers and relevant services in relation to which the State Insurance Regulatory Authority may give directions under the *State Insurance and Care Governance Act 2015* (*the Act*),
- (b) to make further provision in relation to the directions, including provision for service and internal review of directions,
- (c) to prescribe the amounts payable for certain penalty notice offences under the Act,
- (d) to prescribe a class of authorised officers who may issue penalty notices under the Act.

This Regulation is made under the *State Insurance and Care Governance Act 2015*, including sections 26A, definitions of *relevant service* and *relevant service provider*, 26D(4), 26G(2), 29B(2), (4) and (6), definition of *authorised officer*, and 30, the general regulation-making power.

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1 Name of Regulation

This Regulation is the *State Insurance and Care Governance Amendment Regulation 2022*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of State Insurance and Care Governance Regulation 2021

[1] Sections 4A–4F

Insert after section 4—

4A Relevant services—the Act, s 26A

- (1) For the Act, section 26A, definition of *relevant service*, the following services are prescribed—
- (a) audiology and audiometry services,
 - (b) Chinese medicine services,
 - (c) chiropractic services,
 - (d) counselling services,
 - (e) dental services,
 - (f) dietetics and nutrition services,
 - (g) exercise physiology services,
 - (h) massage therapy services,
 - (i) medical radiation practice services,
 - (j) medical services,
 - (k) nursing services,
 - (l) occupational therapy services,
 - (m) optometry services,
 - (n) osteopathy services,
 - (o) patient transport services,
 - (p) pharmaceutical services,
 - (q) physiotherapy services,
 - (r) podiatry services,
 - (s) psychology services,
 - (t) rehabilitation services,
 - (u) social work services,
 - (v) speech therapy services,
 - (w) services provided to injured persons relating to the provision and maintenance of aids, appliances or prostheses, including the following—
 - (i) artificial body parts or other artificial aids,
 - (ii) aids for activities of daily living,
 - (iii) mobility aids,
 - (iv) equipment provided as part of treatment or therapy services,
 - (x) domestic assistance services provided to injured persons, including household cleaning and laundry, lawn or garden care and transport services,
 - (y) private hospital and day surgery services, including in-patient and out-patient services,
 - (z) workplace rehabilitation services,

- (za) services provided by a health practitioner, not involving treatment, consisting of—
 - (i) a medical opinion on the treatment or cause of an injury, or
 - (ii) an assessment of a permanent impairment, or
 - (iii) a peer review, or
 - (iv) facilitating discussions between an injured person and doctors, insurers, employers and other service providers to manage the rehabilitation of the injured person,
 - (zb) administrative services relating to the following—
 - (i) referrals, including receiving referrals from or making referrals to, or on behalf of, a health practitioner,
 - (ii) administrative functions associated with producing medical evidence relating to a person's injury, functioning or impairment,
 - (iii) access to medical documents, including medical certificates or radiology or medical imaging,
 - (iv) centralisation or coordination of referrals or appointments and other administrative functions,
 - (zc) medication management and review, including the assessment and analysis of medication use, cost and prescriber behaviour.
- (2) Subsection (1)(zb) does not include administrative services relating to the provision of legal advice to, or representation of, an injured person regarding a claim or dispute under the workers compensation and motor accidents legislation.

4B Relevant service providers—the Act, s 26A

- (1) For the Act, section 26A, definition of *relevant service provider*, each of the following is not a relevant service provider—
- (a) a public hospital,
 - (b) a local health district,
 - (c) a specialty network governed health corporation,
 - (d) the Ambulance Service of NSW,
 - (e) the Health Administration Corporation established under the *Health Administration Act 1982*,
 - (f) the division of the Ministry of Health known as Health Protection NSW.
- (2) Words and expressions used in this section have the same meaning as in the *Health Services Act 1997*.

4C Directions—the Act, s 26D(4)

- (1) A direction must be given to the relevant service provider—
- (a) personally, or
 - (b) by electronic transmission to an address or location specified by the relevant service provider for receiving directions under the section.
- (2) A direction must—
- (a) include the reasons for the direction, and
 - (b) state that the relevant service provider is entitled to—
 - (i) for a direction given under the Act, section 26D(1)(a) or (b)—an internal review of the direction, or

- (ii) for a direction give under the Act, section 26D(1)(c) or (d)—an administrative review of the direction under the Act, section 26F.
- (3) A direction may be given to a relevant service provider in the following circumstances—
 - (a) the relevant service provider has not complied with a provision of the workers compensation and motor accidents legislation,
 - (b) the relevant service provider has not complied with guidelines issued under—
 - (i) the Act, section 26E, or
 - (ii) the workers compensation and motor accidents legislation,
 - (c) the relevant service provider has been referred to, or is under investigation by, a relevant clinical, professional or accreditation body.
- (4) A direction—
 - (a) takes effect on the day on which the direction is given or a later day specified in the direction, and
 - (b) remains in force until the day, if any, specified in the direction unless sooner revoked by SIRA.
- (5) SIRA may vary a direction given to a relevant service provider by written notice given to the relevant service provider.
- (6) In this section—
direction means a direction under the Act, section 26D.

4D Internal review of directions—the Act, s 26D(4)(f)

- (1) For the Act, section 26D(4)(f), a relevant service provider may apply to SIRA for an internal review of a direction given under the Act, section 26D(1)(a) or (b) within—
 - (a) 28 days after the direction is given, or
 - (b) a longer period specified by SIRA.
- (2) An application for an internal review of a direction must be—
 - (a) written, and
 - (b) made in the form and way determined by SIRA.
- (3) SIRA is not required to conduct an internal review if an internal review of the direction has already been conducted under this section.
- (4) In carrying out an internal review, SIRA may, by written notice to the applicant, request additional information from the applicant.
- (5) The applicant must provide the additional information to SIRA within the period specified in the notice.
- (6) In determining an application for an internal review, SIRA may—
 - (a) confirm the direction, or
 - (b) vary the direction, or
 - (c) revoke the direction.
- (7) SIRA must give written notice to the applicant of the determination of the application for an internal review—
 - (a) within 28 days after the application is received, or

- (b) if written notice has been given to the applicant requesting additional information from the applicant—within 28 days after SIRA receives the additional information, or
 - (c) if, within 28 days after the application is received, SIRA gives written notice to the applicant that additional time is required to consider the application—within the period specified in the notice.
- (8) A determination by SIRA takes effect when written notice of the determination is given to the applicant.
- (9) To avoid doubt, a direction that is the subject of an internal review remains in force until SIRA determines the internal review.

4E Register of directed service providers—the Act, s 26G(2)

- (1) The register of relevant service providers given directions under the Act, section 26D must be—
- (a) in the form determined by SIRA, and
 - (b) made freely available to the public on SIRA’s website.
- (2) The register must include the following information in relation to each relevant service provider given a direction under the Act, section 26D, unless SIRA considers it appropriate not to include the information—
- (a) the relevant service provider’s name,
 - (b) the relevant service provider’s ABN or Australian Health Practitioner Regulation Agency registration number,
 - (c) if applicable, the SIRA provider number for the relevant service provider,
 - (d) the relevant services provided by the relevant service provider,
 - (e) information relating to the direction given to the relevant service provider, including—
 - (i) the direction given, and
 - (ii) the date the direction came into effect.
- (3) SIRA may amend or remove information recorded in the register—
- (a) if SIRA considers the information to be erroneous or misleading, or
 - (b) for another reason SIRA considers appropriate.
- (4) If a direction is varied or revoked, SIRA must update the register within 7 days after the direction is varied or revoked by SIRA or the Civil and Administrative Review Tribunal.

4F Authorised officers—the Act, s 29B(6)

For the Act, section 29B(6), definition of *authorised officer*, persons designated by SIRA as authorised officers for the purposes of the section are prescribed.

[2] Schedule 1

Insert after section 5—

Schedule 1 Penalty notice offences

1 Application of Schedule

- (1) For the Act, section 29B(2)—
 - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2	Column 3
Provision	Penalty—individuals	Penalty—corporations
Offences under the Act		
Section 26C(2)	\$750	\$1,250
Section 26D(3)	\$750	\$1,250