

TERMS OF APPOINTMENT FOR

# MEDICAL ASSESSORS

OF THE

## PERSONAL INJURY COMMISSION

APPLICABLE FOR MEDICAL ASSESSORS WITH  
TERMS COMMENCING ON OR AFTER 1 MARCH 2022



**Personal Injury  
Commission**

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## Introduction

These Terms of Appointment (Terms) are issued by the Personal Injury Commission (the Commission) to apply to all Medical Assessors appointed under the *Personal Injury Commission Act 2020* (the Act) to be Medical Assessors for the purposes of one, some or all of the following:

- Workplace Injury Management and Workers Compensation Act 1998 (WIM)
- Motor Accident Injuries Act 2017 (MAIA)
- Motor Accidents Compensation Act 1999 (MACA)

These terms do not apply to Decision-Makers who are staff members of the Commission.

All appointed Medical Assessors are subject to the following terms and conditions.

## 1. Term of Appointment

- 1.1 The appointment commences on the date set out in Instrument of Appointment (Instrument) and continues until the date specified in the Instrument unless terminated earlier in accordance with these Terms.
- 1.2 The Terms may restrict a Medical Assessor to medical disputes of a particular kind, as specified in the Instrument.
- 1.3 The appointment is governed by and construed in accordance with the laws of the State of New South Wales.
- 1.4 These Terms do not stand alone but form part of the accountability framework within which both the Commission and the Medical Assessors operate. It is complementary to the Commission's procedures and policies, including the Code of Conduct, Medical Assessor professional development framework and the Commission's complaints process.

## 2. Performance of Services as a Medical Assessor

### 2.1 Statutory Authorities

- 2.1.1 Medical Assessors must comply with the Commission's Medical Assessor Code of Conduct (the Code) which sets out principles of conduct and professional behaviour to guide Medical Assessors in the performance of their statutory functions.
- 2.1.2 Services provided by a Medical Assessor must conform to the requirements in the relevant legislation, regulations, guidelines, rules,

procedural directions, and any other directions from the Commission including but not limited to:

- [Personal Injury Commission Procedural Directions](#)
  - [Personal Injury Commission Act 2020](#)
  - [Personal Injury Commission Rules 2021](#)
  - [Personal Injury Commission Procedural DirectionsPersonal Injury Commission Act 2020](#)
  - [Motor Accidents Guidelines](#)
  - [Motor Accidents Compensation Regulation 2020](#)
  - [Motor Accident Injuries Regulation 2017](#)
  - [Motor Accident Injuries Act 2017](#)
  - [Motor Accidents Compensation Act 1999](#)
  - [Workers Compensation Regulation 2016](#)
  - [Workers Compensation Commission Rules 2011](#)
  - [Workplace Injury Management and Workers Compensation Act 1998](#)
  - [Workers Compensation Act 1987](#)
- the American Medical Association Guides to the Evaluation of Permanent Impairment, 4th Edition (AMA 4 Guides) (for motor accidents) and/or
  - the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th Edition (AMA 5 Guides) (for workers compensation), and
  - Any other relevant regulations, guidelines, procedures and/or procedural directions issued by the Commission:
- [Workers Compensation Regulation 2016](#)
  - [Workers Compensation Commission Rules 2011](#)
  - [Motor Accidents Compensation Regulation 2020](#)
  - [Motor Accident Injuries Act 2017](#)
  - [Motor Accidents Guidelines](#)
- the American Medical Association Guides to the Evaluation of Permanent Impairment, 4th Edition (AMA 4 Guides) (for motor accidents) and/or
  - the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th Edition (AMA 5 Guides) (for workers compensation), and
  - Any other relevant regulations, guidelines, procedures and/or directions issued by the Commission.

## **2.2 Allocations, availability, and appointments**

- 2.2.1 A Medical Assessor must be available for a minimum of five (5) appointments each month to conduct medical assessments for the Commission.

- 2.2.2 Medical Assessors are required to provide availability in advance as requested by the Commission, using the digital systems.
- 2.2.3 Medical Assessors must accept allocated appointments within the timeframes required by the Commission. If not accepted, the appointment may be allocated to another Medical Assessor.
- 2.2.4 The Commission makes no guarantee or representation regarding the allocation of work to any Medical Assessor. The services of Medical Assessors will be utilised as required. This may not necessarily result in regular work or any work.
- 2.2.5 Medical Assessors are responsible for managing their availability and may remove availability if it has not been utilised three weeks before the date of the available time slot.

## **2.3 Conducting assessments**

- 2.3.1 Any matters referred by the Commission are to be performed by the allocated Medical Assessor. Matters cannot be assigned or sub-contracted in whole or in part, with the exception of routine administrative duties including but not limited to:
  - a. Booking of appointments
  - b. Preparing invoices, and/or
  - c. Typing.
- 2.3.2 Routine administrative duties do not include such things as history taking or summarising documents provided to the Medical Assessor regarding a referred dispute.
- 2.3.3 Medical Assessors are not permitted to treat or provide medical advice during or after the consideration of the matters referred.
- 2.3.4 Medical Assessors who become aware of a serious and/or imminent threat to the life, health or safety of the Claimant/Worker or another person, or a serious threat to public health or safety, should take whatever action is appropriate to lessen the threat. Medical Assessors must also advise an Officer of the Commission as soon as possible.
- 2.3.5 Medical Assessors should endeavour to understand and be sensitive to the needs of persons involved in proceedings before the Commission, including:
  - a. Demonstrating patience, courtesy and respect in their own conduct and demeanour
  - b. Communicating in a clear, plain manner to be understood by the parties
  - c. Being aware of and responsive to cultural and other sensitivities in relation to forms of address, conduct and dress

- d. Applying the standards of professional behaviour as described in the Commission's [Medical Assessor Code of Conduct](#) as well the [Medical Board of Australia's Code of Conduct](#). In particular, being courteous, alert to the concerns of the person, and ensuring that you have the person's consent for the medical assessment and any necessary physical examination.
- 2.3.6 Medical Assessors will carry out the examination in a respectful and professional manner, taking all efforts to preserve modesty and not exacerbate the condition or cause pain. This may include:
- a. Being aware of any verbal or non-verbal sign the Claimant/Worker has withdrawn consent
  - b. Not continuing with an examination when consent is uncertain, has been refused or has been withdrawn
  - c. Providing suitable covering, which may include a privacy screen, during an examination so that the claimant is covered as much as possible, to maintain their dignity
  - d. Using gloves during examinations in particular where an internal examination is required and must also follow accepted standards of hygiene and infection control
  - e. Not allowing the Claimant/Worker to remain undressed for any longer than is needed for the examination.

## **2.4 Medical Certificates**

- 2.4.1 Medical Assessors are to provide a certificate including reasons and/or a non-binding opinion in the format prescribed by the Commission and within the timeframe directed in the relevant legislation, regulations and/or guidelines.
- 2.4.2 Medical Assessors are to consider all the information provided by the Commission and ensure that all documentation has been read and if applicable, any surveillance imaging has been viewed prior to making a decision.
- 2.4.3 If a decision, certificate, or non-binding opinion due on a matter is not received on the due date, the allocation of further matters to the Medical Assessor may be suspended until such time as any overdue decision, certificate or non-binding opinion is submitted.
- 2.4.4 Where there are regular occasions of a decision, certificate or non-binding opinion not being received by the due date, the Commission may suspend the allocation of further matters until such time as the overdue decision, certificate or non-binding opinion is submitted.
- 2.4.5 If a decision, certificate, or non-binding opinion is not received within 14 calendar days after the due date (2 week late), the Commission may decide to deem the medical assessment to have been abandoned and may decline to pay for any work undertaken on that matter.

- 2.4.6 The Commission may extend the due date of a certificate if the circumstances warrant an extension.
- 2.4.7 Certificates must be submitted in the digital case management system.

### **3. Conflicts of Interest or Apprehension of Bias**

- 3.1 A Medical Assessor must address any real, potential or perceived conflict of interest or apprehension of bias in accordance with the Medical Assessor Code of Conduct (16-21).
- 3.2 If a Medical Assessor has any cause to suspect there may be a perceived or potential conflict of interest or apprehension of bias, they must immediately advise the Principal Registrar in writing.
- 3.3 Where a Medical Assessor notifies the Principal Registrar of any actual or potential conflict of interest, or the Commission otherwise becomes aware of such an actual or potential conflict of interest, the Commission may withdraw the matter allocated to the Medical Assessor that gives rise to the conflict of interest, or potential conflict of interest.

### **4. Performance Evaluation and Monitoring**

- 4.1 Medical Assessor performance is monitored in accordance with the Code of Conduct and in areas including but not limited to:
  - a. **Accessibility and Availability** – ability to accept and undertake work from the Commission
  - b. **Timeliness** – ability to comply with any timeframes set by the Acts, the Regulations, and the Guidelines
  - c. **Obvious Errors and Incomplete certificates** - the nature, volume and severity of any obvious errors and/or incomplete certificates
  - d. **Training** – attendance, participation and learning outcomes achieved at any training sessions arranged by the Commission and required by the President
  - e. **Complaints** – the nature, volume and outcome of any complaints made to the Commission regarding your decision making or conduct
  - f. **Quality** – the nature, volume, and outcome of any review applications and administrative review challenges lodged, accepted and or determined
  - g. **Code of Conduct** – the nature, volume and severity of any breaches of the Code
  - h. **Terms** – the nature, volume and severity of any breaches of these

## Terms

- i. **Professional Development** – confirmation of maintenance of any required ongoing professional development
  - j. **Appointment Rescheduling** – the volume of and reasons for rescheduled appointments
  - k. **Quality Assurance (QA) Programs** – participation and outcomes of any QA programs delivered by the Commission including peer-review, self-review, mentoring, or meeting minimum quality benchmarks
  - l. **Remediation Action Plans (RAP)** – participation and compliance with any RAP required by the Commission to address any performance issues.
- 4.2 Medical Assessors may be required to participate in a performance appraisal scheme which may require the Medical Assessor to attend appraisal interviews from time to time during the term of appointment.
- 4.3 Past performance data as a Medical Assessor will be a consideration in an application for appointment for a future term.
- 4.4 The Commission will notify Medical Assessors of concerns that arise regarding their performance in order to provide the opportunity to address those concerns.

## **5. Medical Assessors on Appeal and Review Panels**

- 5.1 Where a Medical Assessor is appointed to a Panel for the purposes of:
- a. A Review Panel in the Motor Accidents Division; and/or
  - b. An Appeal Panel in the Workers Compensation Division.

They will also be required to provide an additional minimum of two (2) appointments per month to participate in Review/Appeal Panels referred by the Commission.

- 5.2 A Medical Panel Assessor is required to assist the convened Panel to issue the required certificates and reasons within the required timeframe, by promptly perusing all drafts and providing comments, confirmation of agreement, or otherwise, in a timely fashion using the dispute management system.

## **6. Professional Registration Status**

- 6.1 Medical Assessors authorise the Commission to seek information regarding registration and/or membership status from any professional or registration body.



- 6.2 The Commission can conduct checks that include criminal history, professional registration status, complaints with any registration or professional accreditation body. This also includes checks on any previous names that a Medical Assessor may have been known.
- 6.3 Medical Assessors are to notify the Commission in writing immediately if:
- a. There is any change to the professional registration status such as practice conditions, suspensions, and/or deregistration
  - b. They are the subject of a complaint to AHPRA, Health Care Complaints Commission or any other registration or professional accreditation body
  - c. They are under investigation for, charged with or convicted of an offence in NSW or elsewhere
  - d. There is any other reason or occurrence that could affect the Medical Assessor's ability to perform their duties.

## **7. Complaints Received at the Commission**

- 7.1 Any complaint received at the Commission about a Medical Assessor may be investigated by the Principal Registrar.
- 7.2 Medical Assessors are required to respond to requests by the Principal Registrar related to the investigation of a complaint.
- 7.3 The Principal Registrar may suspend allocations to a Medical Assessor during an investigation of a complaint.

## **8. Payment**

- 8.1 A Medical Assessor will be paid fees in accordance with Personal Injury Commission Medical Assessor Fee Schedule.
- 8.2 The Commission will arrange payment once the certificate is submitted in the electronic dispute management system.
- 8.3 The invoice is to be lodged in the format specified by the Commission and will be paid within 30 days of the date of the invoice by electronic funds transfer, subject to the invoice being accepted and approved by the Commission.
- 8.4 Any incorrect payment is recoverable by the Commission.
- 8.5 The Commission is not liable for any Medical Assessor's employees' 'on-costs' including but not limited to: wages, salaries, typing, holiday pay, allowances and/or insurance.

- 8.6 All taxes, including GST, duties and charges imposed or levied in Australia in connection with providing services to the Commission will be borne by the Medical Assessor.
- 8.7 GST is not payable on any dispute resolution service provided in the performance of the requirements of a Medical Assessor, as it is not considered to be a taxable supply.
- 8.8 Medical Assessors authorise the Commission to deduct PAYG withholding from the fees in accordance with ATO tax advice.
- 8.9 The Commission is required to make superannuation guarantee payments under the Commonwealth Superannuation Guarantee (Administration) Act 1992. Medical Assessors are to provide the Commission with the name and details of their approved superannuation fund.
- 8.10 A Medical Assessor must maintain accurate accounting practices and records relating to all assessments for the Commission.
- 8.11 A Medical Assessor must adhere to any guidelines or policies relating to the claiming of expenditure from the Commission.
- 8.12 A Medical Assessor must honestly represent actual expenses incurred when claiming any travel expenses and submit in a timely manner a completed claim form.
- 8.13 A Medical Assessor must not seek or accept frequent flyer points or similar loyalty programs from any airline or travel provider.
- 8.14 Reimbursement of expenses which will not attract PAYG withholding tax, shall be accompanied by the relevant claim form and tax invoice, and may include GST as appropriate to the claim.
- 8.15 Where there is a requirement for a Medical Assessor to travel on Commission business, reimbursement for travel expenses must be negotiated in advance with the Commission.

## **9. Rooms and Facilities**

- 9.1 Medical Assessors may use the Commission's Medical Suites at 1 Oxford St, Darlinghurst. Access and use of the rooms is done in compliance with the Commission's policies and procedures and may only be used for the purpose of conducting Commission business.
- 9.2 Face to face conferences, assessments or meetings with the parties may be undertaken in rooms located at the Medical Assessor's usual place of work, provided by the Commission, or in rooms approved by the Commission.
- 9.3 If a regional venue is required, the Commission may arrange for a suitable room to be made available.

- 9.4 If a Sydney CBD venue is required, the Commission may arrange for a suitable room to be made available.
- 9.5 Where face to face conferences, assessments or meetings are conducted in private premises operated by the Medical Assessor, those rooms must be appropriately maintained, provide a safe working environment and meet workplace health and safety standards.
- 9.6 All equipment used in undertaking a Medical Assessment must be maintained in an operable and effective condition and must meet all work health and safety standards.

## **10. Insurance**

- 10.1 Medical Assessors must hold current insurance with a general insurance company licensed by the Australian Prudential Regulatory Authority including public liability insurance and/or workers compensation insurance.
- 10.2 Medical Assessors must provide evidence of the required insurance policies on request by the Commission.
- 10.3 The Commission does not provide income protection or workers compensation insurance for Medical Assessors.
- 10.4 Medical Assessors are provided protection according to the Code of Conduct (48-50) and under s 38 and s 64(3) of the *Personal Injury Commission Act 2020*.

## **11. No Partnership, Agency or Employer Relationship**

- 11.1 Appointment as a Medical Assessor does not constitute the Medical Assessor as an agent, partner or employee of the Commission.

## **12. Operating Environment**

- 12.1 Medical Assessors must have access to an electronic device with internet access and Google Chrome which has regularly updated software and hardware to open Word files, PDF files, Box files, sound wave files, and other files as required to enable you to receive and view electronically.
- 12.2 All Medical Assessors must operate through the specified electronic dispute management system, except or unless it is not available. The electronic disputes management system provides access to communication, documentation, calendars, certificates, invoicing and other information and administrative tasks required in the performance of your decision-making functions.

- 12.3 Medical Assessors are expected to comply with Commission's cyber security and data privacy requirements. This includes implementing and maintaining measures to protect electronic and physical records which may contain data shared by the Commission. Appropriate security controls should also be applied on the computer and other electronic devices being used to access the Commission's systems.

## **13. Record Keeping, Confidentiality and Disclosure**

- 13.1 All information provided by the Commission in relation to a referral to a Medical Assessor, including any decision or certificate, is confidential and remains the property of the Commission. Medical Assessors must take all reasonable steps to ensure any records are stored in a secure place.
- 13.2 Medical Assessors are to take all reasonable steps to ensure they do not disclose, copy, reproduce, or supply this information to any person or organisation other than the Commission, except as required to do so by law.
- 13.3 Medical Assessors are to take all reasonable steps to ensure this information is used solely for the purposes of the service being provided to the Commission and is protected against unauthorised use and access.
- 13.4 Where a Medical Assessor is required to disclose this information to employees to allow them to carry out their duties, the Medical Assessor must ensure that the employee is aware of the confidential nature of the information provided and the requirements in handling this information.
- 13.5 Medical Assessors must have a high level of protection of electronic records including robust firewalls, up to date anti-virus software and secure passwords.

## **14. Termination**

- 14.1 The Commission may at any time, with or without notice, cease allocating matters to or terminate the appointment of a Medical Assessor, in the event that a Medical Assessor:
- a. Breaches the Medical Assessor Code of Conduct
  - b. Breaches these Terms of Appointment
  - c. Experiences a relevant change in their professional registration status
  - d. Becomes bankrupt, or commences proceedings for bankruptcy, or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compound with creditors or make an assignment of remuneration for their benefit

- e. Is convicted of a criminal offence
  - f. Fails to satisfy the minimum quality benchmarks set by the Commission
  - g. Is the source of multiple complaints about conduct and/or performance
  - h. Succumbs to a physical or mental injury/illness that affects, or is likely to affect, their capacity to make decisions
  - i. Breaches any of the security, privacy and/or confidentiality terms, or
  - j. Is involved in any other matter that adversely impacts the Commission or their appointment as a Medical Assessor.
- 14.2 Medical Assessors may terminate their appointment by giving notice in writing to the Principal Registrar.
- 14.3 Once a Medical Assessor ceases to provide services to the Commission all materials relating to any assessment or other business must be returned promptly to the Commission.

## **15. Disputes**

- 15.1 In the event of any dispute arising from these Terms, the Code of Conduct or any other matter, the Medical Assessor must contact the Commission as soon as practicable and endeavour to resolve the dispute in good faith.
- 15.2 If the matter cannot be resolved, the matter will be referred to the Principal Registrar of the Commission for determination.

## **16. General**

- 16.1 These Terms may be reviewed and varied from time to time by the Commission.
- 16.2 The Commission reserves the right to amend these Terms at any time particularly in relation to changes in legislation, the Commission's electronic operating environment and/or the mode of remuneration. Medical Assessors will be informed of any changes by the Commission.

For further information on these Terms of Appointment please contact [medicalassessors@pi.nsw.gov.au](mailto:medicalassessors@pi.nsw.gov.au)

