

Rehabilitation Model of Care for Injured and/or Ill Nurses in Victoria
Nurses Return to Work in Hospitals Project
An Australian Nursing Federation (Victorian Branch) Project
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June 2009

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Disclaimer: This document does not contain an exhaustive list or review of the relevant sections of the Accident Compensation Act (the Act) applicable to workers compensation, rehabilitation or return to work, or the matters contained herein, nor does it replace appropriate legal advice or expertise that may be required by persons of parties utilising the RehabMoC on these matters. In utilising this document, reference should be made to the Accident Compensation Act 1985 and amendments, and other relevant legislation. Any persons using the document or model contained herein, are responsible for, and advised to, obtain their own legal or expert advice relating to any of the matters contained herein.

Introduction

The Rehabilitation Model of Care for Injured and/or Ill Nurses in Victoria provides a framework for improving and streamlining the management of workplace injury and illness. It can be argued that there is only limited legislative framework, incorporated within the *Accident Compensation Act 1985*, covering certain specific duties and requirements of employers and injured workers in relation to rehabilitation and return to work in Victoria.

Whilst there are Guidelines for Employers, *Helping Injured Workers get back to work: The Return to Work Guide for Victorian Employers*, these guidelines are limited in nature to matters relating to specified obligations of employers under the return to work provisions of the legislation (VWA, 2005b).

The Rehabilitation Model of Care for Injured and/or ill Nurses in Victoria provides a comprehensive model for rehabilitation and return to work of injured nurses based on a holistic, multi-faceted approach, and is targeted towards employers, nurses and others who participate and/or play a role in the rehabilitation and return to work of injured and/or ill nurses.

The Model aims to deliver better health, rehabilitation and return to work outcomes for injured and/or ill nurses and their employers.

The Model is intended to directly benefit nurses and employers by facilitating:

- Better communication between all parties;
- Optimal recovery from work-related injury;
- Early, safe and sustainable return to work;
- Prompt resolution and minimisation of disputes;
- Reduced economic impact;
- Improved workplace morale; and
- Increased productivity.

The following sources, identified from the *Nurses Return to Work in Hospitals Project Reports*, have been utilised in developing the Rehabilitation Model of Care for Injured and/or Ill Nurses in Victoria:

- John Hopkins Hospital – Integrated Workers Compensation System.
- Good Practice Model - Victorian Health Services Management Innovation Council.
- Seven Principles for successful Return to Work – Institute for Health and Work (Canada).
- PEARS Principles – Prevention and Early Active RTW Safely – Occupational Health and Safety Agency British Columbia (Canada).

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- Return to Work and Injury management Model – WorkCover Tasmania Board (ANF (VB), 2007a; 2007b; 2007c; 2007d; 2008).¹

Section 1 of the Model outlines the definition of terms (pages 4-6). Section 2 outlines the legislation that underpins employers obligations for workers compensation and return to work (pages 7-21), as provided in the *Accident Compensation Act 1985*.

The Model builds on employer legislative obligations for return to work and is based on principles which are outlined in Section 3, page 21. Section 4 of the Model consists of seven elements (outlined at pages 23-26) that are considered to be essential to achieving effective rehabilitation and return to work. Section 5 outlines a number of strategies to achieving effective rehabilitation and return to work (pages 27-51).

The Model is supported by the following tools:

- ◆ Overview of the Workers Compensation Claim Process (Appendix 1);
- ◆ Overview of Employer RTW legislative obligations (Appendix 2);
- ◆ Overview of Injured Nurses RTW legislative obligations 93Ca and 93 CB (Appendix 3);
- ◆ Overview of Rehabilitation Model of Care (Appendix 4);
- ◆ Example Rehabilitation Management Plan (Appendix 5);
- ◆ Rehabilitation Model of Care Roles and Responsibilities Example Rehabilitation Management Plan (Appendix 6);
- ◆ Overview of Entitlements (Appendix 7).

The Nurses Return to Work in Hospitals Project has also developed the following resources which support the Model:

1. Guidance on Return to Work Duties.
2. Brochure for Nurses on “What to do if injured?”
3. Training material for NUMS/ANUMS and Nurses in rehabilitation and return to work.
4. Training material for RTW Coordinators, which is an extension of the current training provided to RTW Coordinators provided by WorkSafe Victoria.
5. Internal vocational rehabilitation sample policy and procedures, and assessment report.
6. Guidance material for Medical Practitioners on their role in rehabilitation and return to work.
7. Guide to Nursing Roles and Employment Opportunities – “It’s my career: I’m taking charge”.²

¹ For detailed references of these sources refer to p64.

² These resources can be accessed at www.NursesRTW.com.au

Section 1 - Definition of Terms

Rehabilitation is defined as “the restoration of the injured worker to the fullest physical, mental, social, vocational and economic usefulness of which they are capable. It is a process which begins from the moment of injury or disease and continues until the worker returns to meaningful and productive employment” (ACTU, 2007:29). Rehabilitation includes:

- (i) The physical, social and psychological rehabilitation of the injured and/or ill nurse and assistance in returning them to their work as nurses;
- (ii) Provision of sustainable, safe, meaningful and durable return to work of injured and/or ill nurses identified through consultation with the injured/ill nurse, his/her employer, treating doctor and other key stakeholders.
- (iii) Early identification for those injured and/or ill nurses who cannot return to nursing and the provision of assistance for training and re-skilling to achieve meaningful and productive alternative employment, with the potential to achieve similar income to that prior to the injury or illness;
- (iv) Strategies for long term injured nurses who will never RTW in any capacity and this must encompass restoration of quality of life to the maximum possible level; and
- (v) The linking of rehabilitation with prevention of injury and/or illness to nurses in hospitals.

Injured worker (IW) is a worker who has sustained a workplace injury and/or illness.

Rehabilitation Management Plan (RehabMP) is a holistic plan for the physical, social and psychological rehabilitation, including vocational rehabilitation, of an injured and/or ill nurse. The plan will outline treatment, rehabilitation and return to work, and goals and expectations of an injured and/or ill nurse in recovering from a workplace injury and/or illness. It is a comprehensive individualised plan.

Return to work (RTW) is for the injured and/or ill nurse to return where possible to their pre-injury role following a workplace injury and/or illness.

Return to Work Coordinator (RTWC) is a person appointed by the employer to provide workplace support, assistance and coordinate the RTW of the injured and/or ill nurse.

Rehabilitation Model of Care (RehabMoC) is a model of care specifically for injured and/or ill nurses with workplace injury and/or illness.

Occupational Rehabilitation Program (Occupational Rehabilitation Program) outlines employer action for rehabilitation and return to work of their employees following a workplace injury or illness.

Risk Management Program (RMP) is a program to assess and provide a healthy and safe work environment, through employer action to:

- 1) Demonstrate risk assessment and control action following injury, with timelines.
- 2) Investigate all incidents, accidents, injuries or near misses to identify their cause(s) and adopt preventative measures to minimise risk anywhere in the workplace.
- 3) Consult with Health and Safety Representatives.
- 4) Provide the workplace Risk Management Plan, with the Rehabilitation Management Plan.

Internal Vocational Rehabilitation (IVR) is the identification of employment opportunities with the pre-injury employer in a new role. This is applicable where it is identified early that an injured and/or ill nurse cannot return to their pre-injury role, and includes career counselling to identify career opportunities aligned with medical restrictions. The employer is committed to assisting and supporting training and practical development for this new role. The employer may create a new permanent role, and/or provide the opportunity for a limited period to assist any injured and/or ill nurse in gaining practical development in a new role before advertising the role.

External Vocational Rehabilitation (EVR) is the identification of employment opportunities where an injured and/or ill nurse cannot return to their pre-injury role with their pre-injury employer, and includes a vocational assessment and possible referral for job seeking assistance.

Medical Practitioner (MP) is the primary treater of the injured and/or ill nurse's injury and/or illness.

Allied Health Professional (AHP) includes treaters such as physiotherapists, osteopaths, chiropractors, remedial massage therapists, psychologists, psychiatrists, but not limited to.

Occupational Rehabilitation Providers (ORPs) are often utilised to assist and support injured and/or ill nurses as an addition to other treatment provided as part of their rehabilitation and are focused on return to work. Occupational Rehabilitation Providers provide the following services:

- Initial Occupational Rehabilitation Assessment – an assessment of current medical status and employment status to determine specific occupational rehabilitation needs.
- Functional Assessment – measurement of physiological functioning capacity to identify work capabilities.
- Occupational Rehabilitation Counselling.
- Work Conditioning – specific individualised program of simulated or actual work activities that are structured and graded to progressively increase physical capacity, tolerance, stamina, endurance and productivity.
- Functional Education – education of recommended physical activities to strengthen body and mind to avoid re-injury.

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- Workplace Assessment – identification of suitable employment in workplace and/or modifications in the workplace.
- Job Analysis – assessment of transferable skills and abilities to determine suitable employment opportunities with pre-injury employer.
- Household Help Assessment – to assess ability to carry out basic, routine, common household tasks which they have identified as having difficulty completing and where appropriate recommending external household help services where independence cannot be maintained.
- Vocational Education advice and/or assistance – identification of vocational education needs and employment goals.
- Vocational Assessment new employer - determines achievable suitable employment option/s for a worker based on a current labour market analysis relevant to the worker and where the worker resides.
- Job Seeking Assistance – to assist workers to achieve a RTW outcome with a new employer.

Offer of Suitable Employment (OSE) must be provided to an injured and/or ill nurse when they have a capacity to return to work following a workplace injury, and should include the offer of employment in a position, which is:

- The same as or equivalent to the position the injured and/or ill nurse held prior to injury;
- Level of responsibility; Status; Seniority; Duties; Tasks; Pay rates; Career prospects; and Hours of work (VWA, 2005a).
- Place of residence; Education; Age; Skills; and Work Experience.

Section 2 - Applicable Legislation

In Victoria the *Accident Compensation Act 1985* (the Act) outlines an injured worker's/nurse's entitlement to receive compensation when they have an injury or illness that arises out of or in the course of their employment. Under the Victorian no fault scheme, entitlement to compensation should be provided regardless of fault (subject to provisions of S82 of the Act). The Act outlines an employer's obligations in managing work related injury or illness.

2.1 Lodging a time loss workers compensation claim

The Act contains provisions for the following:

- Registration of injury and/or illness;
- Notice of injury and/or illness;
- Claim for compensation;
- Medical certificate;
- Employer responsibilities to lodge a claim;
- Entitlement to compensation;
- Responsibilities to accept or reject a claim;
- Definition of suitable employment; and
- Injured and/or ill nurses' capacity for work.

S101 of the Act outlines the employer's obligation to keep register of injuries.

(1) The employer must cause to be kept at each workplace of a kind specified by the Authority at a place readily accessible at all reasonable times to a worker employed in the workplace a summary in a form approved by the Authority of-

- (a) the requirements relating to the giving of notice of an injury and the making of a claim under this Act; and
- (b) if an authorised agent is responsible for managing claims under the Act against the employer, the name of the authorised agent; and
- (c) the benefits available to workers under this Act.

(2) The employer must cause to be kept a register of injuries in a form approved by the Authority at each workplace of a kind specified by the Authority at a place readily accessible at all reasonable times to a worker employed in the work place or any person acting on a worker's behalf.

(3) A worker or any person acting on the worker's behalf may enter such particulars of injury as are specified by the Authority in the register of injuries.

(4) On receiving notice of an injury (otherwise than as specified in section 102(3)) an employer must cause the specified particulars of the injury to be entered in the register.

S102 of the Act outlines timing for Notice of injury:

(1) Notice of an injury that may entitle a person to compensation under this Act must be given by the person to the employer within 30 days after the person becomes aware of the injury.

(5) Subject to subsection (6), a person is not entitled to recover compensation under this Act unless notice of the injury has been given to the employer within the time specified in subsection (1).

(6) The Authority or self-insurer may waive or extend the time limit specified in subsection (1), if the Authority or self-insurer is satisfied that-

(a) it was not reasonably practicable for the person, or another person on his or her behalf, to have given notice in accordance with subsection (1); or

(b) the failure to give notice of the injury in accordance with the time limit specified in subsection (1) did not unfairly prejudice the Employer; or

(c) to rely on subsection (5) would result in a serious injustice to the person.

(7) Without limiting the generality of subsection (6)(a), it is to be taken to have been reasonably practicable to give notice of the injury in accordance with the time limit specified in subsection (1) if the failure to give notice was due to-

(i) ignorance or a mistake; or

(ii) undue influence or duress; or

(iii) being absent from Victoria.

S103 of the Act outlines the form for a claim for compensation:

(1) A claim for compensation must-

(a) be in a form approved by the Authority in respect of that type or class of claim (Appendix 1).

S105 of the Act outlines Medical Certificate requirements:

(1) A certificate required under section 103(1) b) to accompany a claim for compensation must-

(a) be issued by a medical practitioner; and

(b) be in a form approved by the Authority; and

(c) specify the expected duration of the worker's incapacity and whether the worker has a current work capacity or has no current work capacity.

S108 of the Act outlines the responsibilities of the employer in forwarding and accepting or rejecting workers compensation claims for weekly payments -

(1) An employer must forward to the Authority-

(ab) any claim for weekly payments.

(2) An employer must accept or reject a claim for weekly payments within 10 days of receiving the claim.

S109 of the Act outlines responsibilities of self-insurers and the Authority to accept or reject a claim -

(1) If the Authority or a self-insurer does not give written notice of a decision to accept or reject a claim for weekly payments within 28 days of receiving the claim-

- (a) the claim is deemed to have been accepted; and
- (b) the Authority or self-insurer must pay weekly payments to the worker subject to and in accordance with this Part.

S82 of the Act outlines entitlement to compensation -

(1) If there is caused to a worker an injury arising out of or in the course of any employment, the worker shall be entitled to compensation in accordance with this Act.

(2A) Compensation is not payable in respect of an injury consisting of an illness or disorder of the mind caused by stress unless the stress did not arise wholly or predominantly from-

- (a) reasonable action taken in a reasonable manner by the employer to transfer, demote, discipline, redeploy, retrench or dismiss the worker; or
- (b) a decision of the employer, on reasonable grounds, not to award or to provide promotion, reclassification or transfer of, or leave of absence or benefit in connection with the employment, to the worker; or
- (c) an expectation of the taking of such action or making of such a decision.

(4) If it is proved that an injury to a worker is attributable to the worker's serious and wilful misconduct (including being under the influence of intoxicating liquor, or a drug within the meaning of the [Road Safety Act 1986](#)) compensation shall not be payable in respect of that injury.

(4A) In subsection (4), serious and wilful misconduct includes-

- (a) committing an offence, in respect of driving a motor vehicle, under [section 318\(1\)](#) of the [Crimes Act 1958](#); and
- (b) committing an offence, in respect of driving a motor vehicle, under section 49(1)(a), (c), (d) or (e) or [section 56\(7\)](#) of the [Road Safety Act 1986](#); and
- (c) committing an offence, in respect of driving a motor vehicle, under section 49(1)(b), (f) or (g) of the [Road Safety Act 1986](#), if the relevant level of concentration of alcohol in the person's blood was 0.24 grams or more per 100 millilitres of blood or in the person's breath was 0.24 grams or more per 210 litres of exhaled air, as the case requires.

S93CA of the Act outlines ongoing entitlement to receive weekly payments –

(1) In this section the first entitlement period means an aggregate period not exceeding 13 weeks (whether consecutive or not) in respect of which a weekly payment has been paid or is payable to the worker.

(2) A worker is entitled, subject to and in accordance with this Part, to weekly payments while incapacitated for work during the first entitlement period at whichever of the following rates apply-

(a) if the worker has no current work capacity, the rate of-

- (i) 95 per cent of the worker's pre-injury average weekly earning; or
- (ii) \$1130-

whichever is the lesser;

(b) if the worker has a current work capacity, the rate of-

- (i) the difference between 95 per cent of the worker's pre-injury average weekly earnings and the worker's notional earnings; or
- (ii) the difference between \$1130³ and the worker's notional earnings-

whichever is the lesser.

(3) A worker is entitled to receive weekly payments under this section-

(a) where subsection (2)(a) applies, the worker-

- (i) makes every reasonable effort to participate in an occupational rehabilitation service or return to work plan; and
- (ii) makes every reasonable effort to return to work in suitable employment; and
- (iii) participates in assessments of the worker's capacity, rehabilitation progress and future employment prospects when requested to do so from time to time by the employer or self-insurer or the Authority;

(b) where subsection (2)(b) applies, the worker-

- (i) participates in an occupational rehabilitation service or a return to work plan; and
- (ii) makes every reasonable effort to return to work in suitable employment at the worker's place of employment in co-operation with the employer and the Authority or with the self-insurer (as the case may be); and
- (iii) where the worker's employer cannot provide suitable employment, makes every effort to return to work in suitable employment at another place of employment; and
- (iv) participates in assessments of the worker's capacity, rehabilitation progress and future employment prospects when required by the employer or self-insurer or the Authority.

(4) Where a worker does not make reasonable efforts to return to work and in particular does not comply with the requirements of subsection (3) that are applicable in his or her case, the worker's entitlement to further weekly payments in respect of the injury shall cease and determine.

³ This figure is subject to yearly reviews to reflect

S93CB of the Act outlines the second entitlement period:

(1) In this section second entitlement period means an aggregate period of 130 weeks (whether consecutive or not and including the first entitlement period within the meaning of section 93CA(1)) in respect of which a weekly payment has been paid or is payable to the worker.

(2) A worker is entitled, subject to and in accordance with this Part, to weekly payments while incapacitated for work (not being a period during the first entitlement period within the meaning of section 93CA(1)) until the expiry of the second entitlement period at whichever of the following rates apply-

(a) if the worker has no current work capacity, the rate of-

- (i) 75 per cent of the worker's pre-injury average weekly earnings; or
- (ii) \$1130-

whichever is the lesser;

(b) if the worker has a current work capacity, the rate of-

- (i) the difference between 75 per cent of the worker's pre-injury average weekly earnings and 75 per cent of the worker's notional earnings; or
- (ii) the difference between \$1190 and 75 per cent of the worker's notional earnings-

whichever is the lesser;

(c) if the worker has a current work capacity but the worker's employer has failed to offer suitable employment, the rate of-

- (i) 75 per cent of the worker's pre-injury average weekly earnings; or
- (ii) \$1130-

whichever is the lesser.

(3) A worker is entitled to receive weekly payments under this section only if-

(a) where subsection (2)(a) applies, the worker-

- (i) makes every reasonable effort to participate in an occupational rehabilitation service or a return to work plan; and
- (ii) makes every reasonable effort to return to work in suitable employment; and
- (iii) participates in assessments of the worker's capacity, rehabilitation progress and future employment prospects when requested to do so from time to time by the employer or the Authority or self-insurer;

(b) where subsection (2)(b) applies, the worker-

- (i) participates in an occupational rehabilitation service or a return to work plan; and
- (ii) makes every reasonable effort to return to work in suitable employment at the worker's place of employment in co-operation with the employer and the Authority or with the self-insurer (as the case may be);

(iii) makes every effort to return to work in suitable employment at another place of employment; and

(iv) participates in assessments of the worker's capacity, rehabilitation progress and future employment prospects when required by the Authority or self-insurer;

(c) where subsection (2)(c) applies, the worker-

(i) participates in an occupational rehabilitation service or a return to work plan; and

(ii) makes every reasonable effort to return to work in suitable employment at the worker's place of employment in co-operation with the employer and the Authority or with the self-insurer (as the case may be); and

(iii) makes every effort to return to work in suitable employment at another place of employment; and

(iv) participates in assessments of the worker's capacity, rehabilitation progress and future employment prospects when required by the Authority or self-insurer.

(4) Where a worker does not make reasonable efforts to return to work and in particular does not comply with the requirements of subsection (3) that are applicable in his or her case, the worker's entitlement to further weekly payments in respect of the injury shall thereupon cease and determine.

S99 of the Act outlines compensation for medical and like services –

(1) If there is caused to a worker an injury which entitles a worker to compensation, the Authority or a self-insurer and the employer in respect of the employer's liability under section 125(1)(a)(iii) or 125A(3)(c) shall be liable to pay as compensation-

(a) the reasonable costs of the road accident rescue services, medical, hospital, nursing, personal and household, occupational rehabilitation and ambulance services received because of the injury.

(2) Where the Authority, employer or a self-insurer agrees to pay amounts under this section it must give the worker reasonable notice before discontinuing payments in respect of the occupational rehabilitation service.

(3) A worker shall be entitled to receive a service referred to in subsection (1) (other than an occupational rehabilitation service) from the provider of the worker's choice notwithstanding that an employer or the Authority or a self-insurer as the case may be offers or provides a service to the worker for the worker's use.

(3A) A worker is entitled to receive occupational rehabilitation services referred to in subsection (1) from-

(a) a provider of occupational rehabilitation services chosen by the worker from a list of approved providers of those services nominated by the Authority, employer or self-insurer in accordance with subsection (3B); or

(b) if the Authority, employer or self-insurer does not nominate a list of approved providers of those services for the purposes of this subsection, from an approved provider of those services of the worker's choice.

(3B) A list of providers of occupational rehabilitation services referred to in subsection (1) must consist of the names of not less than 3 approved providers of those services nominated by the Authority, employer or self-insurer having regard as far as is possible to-

- (a) the type of injury the worker has suffered;
- (b) the type of occupational rehabilitation services required;
- (c) where the worker resides;
- (d) where the provider is requested by the Authority, self-insurer or employer to provide the services.

(3C) If 3 approved providers of particular occupational rehabilitation services are not available, it is sufficient compliance with subsection (3B) if the list consists of the names of the available approved provider or providers of those occupational rehabilitation services.

(3D) If-

- (a) the Authority, employer or self-insurer offers occupational rehabilitation services from an approved provider of occupational rehabilitation services chosen by the worker from a list of providers of those services nominated by the Authority, employer or self-insurer in accordance with subsection (3B) or (3C); and
- (b) the worker does not choose an approved provider of those occupational rehabilitation services within 14 days of the offer of occupational rehabilitation services-

The occupational rehabilitation services will be offered or provided to the worker by an approved provider of occupational rehabilitation services nominated by the Authority, employer or self-insurer in accordance with subsection (3B).

(14) Compensation under this section does not cease if-

- (a) the worker has returned to work but-
 - (i) could not remain at work if a service under subsection (1) was not provided; or
 - (ii) surgery is required for the worker; or
 - (iii) the worker has a serious injury within the meaning of section 93B(5);or
- (b) the worker requires modification of a prosthesis; or
- (c) the service provided under subsection (1) is essential to ensuring that the worker's health or ability to undertake the necessary activities of daily living does not significantly deteriorate.

S5 of the Act outlines the definition of suitable employment in relation to a worker - suitable employment means employment in work for which the worker is currently suited (whether or not that work is available), having regard to the following -

- (a) the nature of the worker's incapacity and pre-injury employment;

- (b) the worker's age, education, skills and work experience;
- (c) the worker's place of residence;
- (d) the details given in medical information including the medical certificate supplied by the worker;
- (e) the worker's return to work plan, if any;
- (f) if any occupational rehabilitation services are being provided to or for the worker.

S99A of the Act provides that the Authority, employer or self-insurer may pay for rehabilitation service -

- (1) The Authority, employer or a self-insurer may pay the reasonable costs of an occupational rehabilitation service provided to a worker whether or not the entitlement of the worker to compensation under this Act has been established.
- (2) Where the Authority, employer or a self-insurer agrees to pay amounts under this section it must give the worker reasonable notice before discontinuing payments in respect of the occupational rehabilitation service.

S111 of the Act outlines certificate of capacity for work -

- (1) Subject to subsection (1A), a worker must provide to the Authority or self-insurer-
 - (a) certificates of capacity in accordance with this section in respect of the period in respect of which the worker is entitled to weekly payments; and
 - (b) a declaration in the form approved by the Authority as to whether or not the worker is engaged in any form of employment or in self-employment or voluntary work for which he or she receives or is entitled to receive payment in money or otherwise or has been so engaged at any time since last providing a certificate under this section or section 105.

(1A) If a decision to reject a claim for weekly payments or to terminate weekly payments is set aside, a worker is not required to comply with subsection (1) in respect of any period from the date that the decision took effect until the day on which the decision is set aside.
- (2) A certificate of capacity must-
 - (a) be a certificate-
 - (i) under section 105; or
 - (ii) in a form approved by the Authority given by a medical practitioner, registered physiotherapist, registered chiropractor or registered osteopath; and
 - (b) certify as to the worker's incapacity for work and whether the worker has a current work capacity or has no current work capacity during the period, not exceeding 28 days, stated in the certificate; and
 - (c) specify the expected duration of the worker's incapacity.
- (3) Despite subsection (2)(b), a certificate of capacity covering a period exceeding 28 days is in accordance with this section if-

- (a) the person giving the certificate states in the certificate the special reasons why the certificate covers the longer period; and
- (b) the Authority or self-insurer is satisfied that, for the special reasons stated, the certificate should be accepted.

(4) A certificate of capacity is of no effect to the extent that it relates to a period of time before a period of 90 days of the date that the certificate is provided.

S112 of the Act outlines Medical examinations required by the Authority or Self Insurer -

(1) The Authority or a self-insurer may require a worker who has made a claim for compensation to submit at reasonable intervals to an examination by an independent medical examiner provided and paid for by the Authority or self-insurer.

(2) If a worker unreasonably refuses to have, or unreasonably obstructs, an examination under subsection (1)-

- (a) any claim or proceedings commenced by or on behalf of the worker; and
- (b) the worker's entitlement-
 - (i) to compensation under this Act; or
 - (ii) to apply to the County Court or Magistrates' Court-
are suspended until the examination takes place.

(3) When the examination takes place any period between the date on which the worker unreasonably refused to have, or unreasonably obstructed, the examination and the date of the examination must be taken into account for the purpose of calculating, subject to this Act, a period or time for the purposes of this Part.

(4) Any weekly payments which would otherwise be payable during the period of suspension are forfeited.

(5) In this section independent medical examiner means-

- (a) a medical practitioner; or
- (ab) a registered dentist; or
- (b) a registered physiotherapist; or
- (c) a registered chiropractor or a registered osteopath; or
- (d) a registered psychologist-
approved by the Authority for the purposes of this section.

S59 of the Act outlines disputes relating to weekly payments –

(1) In this section a reference to a dispute as to liability to make or continue to make weekly payments includes a reference to a dispute as to whether a worker has no current work capacity or has a current work capacity or as to any other matter which affects the amount of the weekly payments.

(3) If the Conciliation Officer is satisfied that there is no genuine dispute with respect to the liability to make or continue to make weekly payments, the Conciliation Officer may direct the Authority, employer or self-insurer, as the case may be to pay or continue to pay compensation in accordance with the direction.

(4) If the Conciliation Officer is satisfied that there is a genuine dispute with respect to the liability to make or continue to make weekly payments, the Conciliation Officer must notify the person who made the claim for weekly payments, or who was receiving weekly payments, of that fact and that an application may be made to the County Court to determine the matter.

(10) For the purposes of this section a Conciliation Officer is to be taken to be satisfied that-

- (a) there is a genuine dispute if the Conciliation Officer is satisfied that there is an arguable case in support of the denial of liability;
- (b) there is no genuine dispute if the Conciliation Officer is satisfied that there is no arguable case in support of the denial of liability.

Appendix 1 provides a brief overview of the Workers' Compensation claim process.

2.2 Case Law

The *Accident Compensation Act 1985* does not address directly the question whether weekly payments are payable in addition to annual leave, long service leave or sick leave, however the position has been settled by a judicial decision.⁴ Annual leave and Long Service Leave are not considered as part of current weekly earnings and therefore do not preclude an injured and/or ill nurse from receiving weekly workers compensation payments at the same time.

It is generally not advisable for injured and/or ill nurses to utilise these leave entitlements whilst on workers compensation. We would encourage injured and/or ill nurses to seek advice from their union representative for further clarification.

⁴ *Nicolson v The Victorian Railway Commission* 3 WCBD 77

2.3 Legislative Framework for Return to Work

The Act contains provisions for the following:

- Employer obligation to re-employ worker;
- Occupational Rehabilitation Program and Risk Management Program;
- Content of a RTW Plan;
- Nomination of a RTW Coordinator; and
- Interview regarding employment opportunities.

S155A of the Act outlines where an employer is to re-employ a worker:

(1) This section applies if-

- (a) a worker receives an injury arising out of, or in the course of, employment with an employer; and
- (b) the worker makes a claim for weekly payments in respect of the injury and either-
 - (i) the claim is accepted; or
 - (ii) a Conciliation Officer gives a direction that weekly payments are to be paid in relation to the claim; or
 - (iii) a Conciliation Officer makes a recommendation that weekly payments be paid in relation to the claim and the recommendation is accepted by the employer or the Authority or the self-insurer (as the case maybe); or
 - (iv) the claim is determined by a court in favour of the worker.

(2) If, within the period specified in subsection (3), the worker no longer has an incapacity for work or has a current work capacity, the employer must provide the worker-

- (a) if the worker no longer has an incapacity for work, with employment in a position which is the same as, or equivalent to, the position which the worker held before the injury; or
- (b) if the worker has a current work capacity, with suitable employment.

(3) The period-

- (a) starts on the day this section first applies in respect of the worker; and
- (b) includes any period or periods after that time during which the worker has an incapacity for work; and
- (c) does not include-
 - (i) any period or periods after that time during which the worker does not have an incapacity for work; nor
 - (ii) any of the following periods (if applicable)-
 - (A) the period between when the Authority rejects a claim after it has been accepted by the employer and when weekly payments are resumed;

- (B) the period between when a direction of a Conciliation Officer that weekly payments are to be made is revoked and when weekly payments are resumed; and
- (d) ends as soon as the total of the period or periods described in paragraph (b) less any period described in paragraph (c)(ii) is equal to-
 - (i) 12 months; or
 - (ii) if the employer provided the worker with employment of the nature described in subsection (2)(a) or (2)(b) (as the case may be) before the employer was required to do so by this section, 12 months less the period of that employment (or less the total of the periods of that employment, if there are more than one).

S155B of the Act outlines exemptions from **S155A**:

- (1) An employer need not comply with section 155A if doing so would cause unjustifiable hardship to the employer.
- (2) Relevant factors in determining whether compliance with section 155A would cause unjustifiable hardship to an employer include-
 - (a) the nature of the benefit likely to accrue, or the detriment likely to be suffered, by any relevant person;
 - (b) the effect on the worker of his or her incapacity for work;
 - (c) the financial circumstances of the employer and the estimated cost to the employer of compliance;
 - (d) the extent of previous efforts by the employer to rehabilitate the worker;
 - (e) the sustainability of the relevant work in the medium to longer term with regard to the worker's injury;
 - (f) the length of service of the worker;
 - (g) the employer's documented return to work policy;
 - (h) the potential for retraining the worker;
 - (i) the number of workers to which the employer has already extended suitable employment;
 - (j) the extent to which the injury that caused or materially contributes to the worker's incapacity is related to the worker's employment with the employer;
 - (k) the potential of the worker to obtain suitable employment elsewhere in the labour market if he or she is not provided with suitable employment by the employer.

S156 of the Act sets out an employer's obligation for Occupational Rehabilitation and Risk Management Programs:

- (1) An employer who has certified, or in respect of whom there has been assessed, a total amount of more than \$1 000 000 of rateable remuneration for all workplaces of that employer for a financial year in accordance with the Accident Compensation (WorkCover Insurance) Act 1993 must within 3 months of the certification or assessment establish and maintain-

- (a) an occupational rehabilitation program; and
- (b) a risk management program-

in accordance with this Part.

(2) The employer of a worker who has an incapacity for work that was caused by, or that was materially contributed to by, an injury must-

- (a) as soon as practicable but not later than 10 days after the relevant day-
 - (i) prepare a return to work plan in respect of the worker; and
 - (ii) nominate a return to work co-ordinator; and
- (b) within 3 months after the relevant day establish and maintain-
 - (i) an occupational rehabilitation program; and
 - (ii) a risk management program- in accordance with this Part.

S159 of the Act outlines a Risk Management Program:

A risk management program must provide for the steps to be taken after an injury has occurred in the workplace to, as far as is practicable, reduce the risk of subsequent injury of that kind.

S158 of the Act outlines an employer's obligation to develop an Occupational Rehabilitation Program:

(1) This must:

- (a) include-
 - (i) a statement of the employer's return to work policy; and
 - (ii) the name of a return to work co-coordinator nominated by the employer; and
 - (iii) the name of at least one approved provider of occupational rehabilitation services who will be available to provide services where reasonably necessary for the return to work and maintenance at work of an injured worker; and
- (b) provide for any additional matters specified by the Authority;
- (c) be developed by the employer in consultation with the workers of the employer; and
- (d) be in writing.

(2) Must be made available to all workers of the employer.

Risk management and occupational rehabilitation programs are systems that an employer legislatively has to have in place in readiness for the management of injury and/or illness in the workplace, they are systems should be developed through consultation with employees, health and safety representatives and union representatives. The systems must then be displayed in the workplace (VWA, 2005b).

The VWA (2005b) developed the Guidelines *Helping Injured Workers get back to work: The Return to Work Guide for Victorian Employers* to assist employers with the RTW of injured or ill employees. The Guidelines outline an Occupational rehabilitation program should incorporate the following:

- (i) The RTW process will commence as soon as possible after an injury, which is consistent with medical advice received;
- (ii) Remaining at work or returning to work is a normal expectation of the workplace;
- (iii) Treatment, return to work activities and any reasonably necessary occupational rehabilitation services will begin immediately or, if not required immediately, then as soon as it is necessary, to ensure the earliest possible return to pre-injury employment;
- (iv) An injured worker will be provided with a choice of three occupational rehabilitation providers;
- (v) Suitable employment, which includes modified and/or alternative duties, consistent with medical opinion, to assist the injured worker remain at work and/or RTW at the earliest opportunity;
- (vi) The development of a RTW plan for any injured worker who does not have a capacity for work, and must be developed as soon as practicable following injury but not greater than 10 days from the applicable date;
- (vi) Consultation and communication with all employees and/or representative worker(s), in the development and review of occupational rehabilitation program and RTW policy;
- (vii) Confidentiality of injury and RTW will be maintained; and
- (viii) An injured worker will not be prejudiced for participating in a RTW plan. (VWA, 2005b: 15-16)

S160 of the Act outlines the content of a RTW plan:

- (1) A return to work plan must –
 - (a) include –
 - (i) the name of the injured worker; and
 - (ii) an estimate of the date that the injured worker should be fit to return to work; and
 - (iii) an offer of suitable employment under section 155A; and
 - (iv) the steps to be taken to facilitate the worker's return to work; and
 - (b) specify any occupational rehabilitation services that are reasonably necessary for the return to work and the maintenance at work of the injured worker; and
 - (c) be prepared in accordance with guidelines issued by the Authority for the purposes of this section.
- (2) A return to work plan must be revised in accordance with guidelines issued by the authority for the purposes of this section as often as is necessary during the worker's period of incapacity to work.

S161 of the Act provides that a RTW coordinator must:

- (a) assist injured workers, where prudent and practicable, remain at work or RTW as soon as possible after injury;
- (b) liaise with any parties providing occupational rehabilitation of, or medical or hospital services to, an injured worker;

- (c) monitor the progress of an injured worker's capacity to return to work;
- (d) ensure that, where reasonably necessary, an injured worker is given access to occupational rehabilitation services in accordance with section 99 (3A);
- (e) take steps to as far as practicable prevent recurrence or aggravation of the relevant injury upon the worker's return to work; and
- (f) assist in meeting the requirements of this Part.

S162 of the Act outlines the Interview about Employment Opportunities:

- (1) The Authority or a self-insurer may require a worker who is receiving weekly payments to attend at an interview with a representative of the Authority or self-insurer for the purpose of ascertaining whether the worker's opportunities for employment can be enhanced.
- (2) A worker who is required to attend at an interview may be accompanied by any person or persons nominated by the worker for the purpose of assisting the worker to achieve the purposes of the interview.

Appendix 2 provides an overview of return to work legislative obligations for employers. Appendix 3 provides an overview of injured and/or ill workers legislative obligations for return to work.

Section 3 - Principles of Rehabilitation Model of Care

The following principles underpin the Rehabilitation Model of Care:

- A non-adversarial approach to manage injuries which encourages early reporting, injured worker advocacy, and facilitation of care.
- Preventative measures applied through policy and practice to prevent injury in the workplace.
- A psychosocial approach to the management of injuries, with the objective to:
 - i. Build supportive relationships;
 - ii. Is considerate;
 - iii. Tends to psychological and emotional needs of injured workers.
- Early intervention is critical. Rehabilitation should commence as soon as possible following injury regardless of determination of liability.
- All parties, including the worker, should:
 - i. View recovery and return to work as the primary goals following a workplace injury and/or illness.
 - ii. Have a shared commitment to these goals; and
 - iii. Work together through co-operation, collaboration and consultation to achieve these goals.
- Rehabilitation will include maintenance of the relationship between the employer and the injured nurse.
- Recognition of the differing phases of rehabilitation.
- Support for long term injured nurses to promote the recovery and restoration of their functional capabilities, return to work and/or employability and/or quality of life, to the maximum possible level.
- All parties, particularly the injured nurse, their employer and medical practitioner should have access to information and support in order to clearly understand their roles, rights and responsibilities.
- Provision of sustainable, safe, meaningful and durable duties.
- Competent, knowledgeable and authoritative return to work coordinator and line management.
- Active involvement from Boards and senior management, particularly in:
 - i. Awareness raising regarding injury and consequence of injury;
 - ii. Adopting fair, equitable and non-discriminatory policies that support injured and/or ill workers.
 - iii. Budget appropriately.
- Continuous evaluation and improvement.

Section 4 - Elements of Rehabilitation Model of Care

The following elements of the Rehabilitation Model of Care (RehabMoC) are essential in supporting the underlying principles to achieve the objective of improving the rehabilitation of workplace injury and/or illness.

4.1 Shared commitment to rehabilitation

The RehabMoC is aimed at driving shared ownership of and commitment to rehabilitation. It is about creating a culture of trust and cooperation, where all parties are working with a common purpose toward the same goals following a workplace injury and/or illness – which includes recovery from injury and/or illness and early and sustainable, safe, meaningful and durable RTW duties, and support of long term injured and/or ill nurses.

The Model addresses this by:

- Occupational Rehabilitation Management and Risk Management Programs.
- Promoting supportive workplaces.

4.2 Access to information and support

Effective Rehabilitation relies on participation and cooperation between all parties, particularly the injured worker, employer and medical practitioner. The RehabMoC recognises that injured nurses, employers and medical practitioners need to have relevant, reliable information and support to enable them to fully participate in the Rehabilitation process. The Model addresses this by requiring that:

- Nurses are provided with comprehensive training and information on consequence of injury and/or illness, workers compensation and rehabilitation during induction and ongoing biennially.
- Management be provided with comprehensive training and information on consequence of injury and/or illness, workers compensation and rehabilitation during induction and biennially.
- The provision of appropriate documentation for medical practitioners on RehabMoC for injured and/or ill nurses.

4.3 Early intervention

The *Literature Review* identified that early intervention is a factor for successful RTW (ANF (VB), 2007a).

The RehabMoC acknowledges and reinforces the importance of commencing rehabilitation and the RTW process as soon as possible following an injury by:

- Promoting early notification of injury (within 48 hours of injury);
- Encouraging parties to take appropriate action following notification of injury i.e. risk minimisation;
- Promoting early lodgement and reporting of claims for workers compensation;

4.4 Effective communication, consultation, consideration, planning and coordination

The RehabMoC aims to encourage full and open communication between all parties involved in the Rehabilitation process. It was identified in the *Literature Review* that “employers understand the importance of communication and, consideration of, social support factors for successful RTW” (ANF (VB), 2007a). The *Initial Report on Factors for and Barriers to Successful Return to Work*, identified that “positive and continual communication between injured workers and their employers and other stakeholders” was an important factor for successful RTW (ANF (VB), 2007b).

Proper coordination and planning is essential to ensure that the Rehabilitation process runs smoothly. The Model aims to improve communication, consultation, coordination and planning by:

- Encouraging clear, timely and non-threatening communication;
- Promoting full and open disclosure of relevant information; and
- Promoting appropriate rehabilitation planning – Rehabilitation Management Plan.

4.5 Timely and appropriate medical management

The medical management of an injury is a key factor in an injured nurse’s recovery. Medical treatment should be timely, appropriate and of a high quality to ensure optimal recovery.

The Rehabilitation Model of Care aims to improve and streamline the medical management of injury and/or illness by:

- Recognising the central role of the treating medical practitioner;
- Recognising the importance of rehabilitation in aiding recovery;
- Promoting access to appropriate, high quality medical treatment early;
- Establishing the medical certificate as an effective injury/illness communication tool;
- Encouraging timely responses to requests for information/reports;
- Encouraging the use of evidence based medical treatment guidelines;
- Clarifying the use of independent medical examinations;
- Promoting minimisation and appropriate resolution of disputes about medical management.

4.6 Early, sustainable, safe, meaningful and durable return to work – should be workplace based where possible

Early RTW, with the pre-injury workplace and/or illness employer, can have a positive impact on recovery and rehabilitation for injured and/or ill nurses where identified RTW duties are sustainable, safe, meaningful and durable (ANF (VB), 2007a; ANF (VB), 2007b). Injured and/or ill nurses advised that RTW needs to focus on what they can do rather than what they cannot do, and they need to be identified nursing duties (ANF (VB), 2007d).

Where possible, return to work should occur at the pre-injury workplace as this can have a positive impact on recovery, as it is a familiar environment to the injured and/or ill nurse and allows him or her to have access to existing social networks. It can also decrease the length of time it takes to RTW, which has benefits for the employer, e.g., reducing time lost from work, minimising impact on premiums, etc (ANF, 2007a).

The Rehabilitation Model of Care attempts to improve rehabilitation and return to work outcomes by:

- Assisting continued worker contact/involvement with the workplace following injury;
- Acknowledging genuineness of injury and/or illness;
- Developing individualised Rehabilitation Management Plans;
- Promoting workplace-based coordination of return to work;
- Encouraging the employer to meet legislative obligations with respect to rehabilitation and return to work;
- Explaining to injured and/or ill nurses the process, their rights and obligations with respect to rehabilitation and return to work;
- Requiring regular review of Rehabilitation Management Plan;
- Encouraging early and appropriate referral to occupational rehabilitation providers;

- Promoting minimisation and appropriate resolution of disputes about rehabilitation and return to work.

Early RTW may not be appropriate for some injured and/or ill nurses, as it may hinder their recovery and rehabilitation and if applied early may lead to setbacks in recovery and RTW. It needs to be acknowledged that there will be some injured and/or ill nurses who may never be able to return to nursing and/or work at all. For their benefit this needs to be identified early, to ensure appropriate support and rehabilitation focusing on restoration of functional capabilities and quality of life.

4.7 Monitoring, Review and evaluation for better long term outcomes

Regular monitoring and evaluation is essential to ensure that the Rehabilitation Model of Care is meeting its objectives. It allows any problem areas, or opportunities for improvement to be identified and addressed accordingly.

The Model facilitates this process by:

- Collection of relevant data; and
- Development and implementation of review and evaluation mechanisms.

Section 5 - Making the Rehabilitation Model of Care Work – Strategies

5.1 Shared Commitment to Rehabilitation

The strategies for shared ownership and commitment to rehabilitation, including legislative obligations, are outlined below:

(a) Occupational Rehabilitation Program and Risk Management Program

This strategy aims to encourage commitment to rehabilitation as it is a requirement that every workplace must have an Occupational Rehabilitation Program (ORProg) and Risk Management Program (RMP).

What is an Occupational Rehabilitation Program?

An Occupational Rehabilitation Program should outline an employer's policy and practice for the management of injury and/or illness of their employees following workplace injury or illness.

What is a Risk Management Program?

A Risk Management Program should assess and meet the need for health and safe work, through requiring the employer to:

1. Demonstrate risk assessment and control actions following injury, with timelines.
2. Investigate all incidents, accidents, injuries or near misses to identify their cause(s) and adopt preventative measures to minimise risk anywhere in the workplace.
3. Provide RMP to the injured/ill nurse and treater to demonstrate that ongoing risk has been identified and minimised.
4. Consult with Health and Safety Representatives.
5. Provide the Risk Management Program with the Rehabilitation Management Plan.

Legislative Obligations

The following sections of the Act are applicable:

- S155A, S158 and S159.

Employers have a legislative obligation to develop and maintain an Occupational Rehabilitation Program and a Risk Management Program.

The Occupational Rehabilitation Program and Risk Management Program should be developed through:

- Consultation with the workplace and worker representatives.
- Commitment from Boards and CEO's.
- The development and implementation of policies and procedures.

The Occupational Rehabilitation Program and Risk Management Program should be:

- Promoted and displayed within the workplace, and annually reviewed.
- Identified in the Business Plan as a core outcome for the organisation.
- Promoted to external stakeholders as a statement of workplace commitment to health and wellbeing of employees.

(b) Promoting supportive workplaces

The strategy aims to assist employers to establish supportive workplaces, in which injured workers feel comfortable and secure.

Education:

Employers are encouraged to:

- Provide training and information on workers compensation and rehabilitation for managers and supervisors in order to establish and foster a supportive workplace for injured and/or ill workers.
- Educate all employees of the consequence of injury and/or illness as part of induction, with refreshers biennially.

Prevention of anti-discrimination (including perception of discrimination) is promoted by:

- Employer process to avoid discrimination to an injured or ill worker.
- An employer is to promote and encourage the early reporting of workplace injury or illness, and inform employees that they will not be subjected to any discrimination as a result of reporting workplace injury or illness or lodging claims for workers compensation.

5.2 Access to Information and Support

The Model provides strategies to facilitate greater access to information and support as follows:

(a) Provision of comprehensive information and training

This strategy improves access to information by requiring the development and distribution of information packages for injured and/or ill workers.

Developing and distributing information packages to injured and/or ill nurses:

- Information packages are to be developed and provided following notice of an incident or injury and/or illness, to:
 - (a) Nurses that are likely to have an incapacity for work or require medical treatment;
 - (b) Nurses who lodge a workers compensation claim.
- Information packages can be provided electronically on the intranet for workers to access, where this is applicable.

What should be included in the information package?

The strategy is to be transparent in the information provided on workers compensation and rehabilitation. Research has identified that the provision of information on RTW at the onset of injury and/or illness is a factor for successful RTW (ANF, 2007a).

The information package should include:

- Workers' Compensation Claim Form;
- Information on what occurs when you have a workplace injury and/or illness;
- Information on process, rights and obligations;
- Information for treaters - explaining process, rights and obligations;
- Commitment to assist with early recovery.

This information should be explained in person to ensure understanding and allow for the opportunity to clarify information, it is also an opportunity to empathise with the injured and/or ill worker regarding their injury or illness.

Information for treaters

Information should be provided to treaters from an employer on the:

- Rehabilitation and return to work process, role and responsibilities; including development of the Rehabilitation Management Plan;
- Provision of a risk management plan demonstrating prevention or diminishment of ongoing risk to the injured and/or ill nurse.
- Expectations and communication channels.
- Agent, who will contact treaters.

5.3 Early Intervention

Research has identified that early intervention is a factor for successful RTW. The strategies aim to promote early intervention and notification of injury and/or illness to ensure that the injured and/or ill nurse is able to receive appropriate support and treatment early. This incorporates the following key strategies:

(a) Requiring early notification of injury (within 48 hours of injury)

This strategy facilitates early intervention by requiring that the employer is notified of injury or illness as soon as possible.

Encouraging workers' to report injury or illness as soon as possible:

- An employer should encourage workers to report all incidents or accidents including workplace injury or illness or symptoms, assuring them that they will not be subjected to discrimination as a result of reporting workplace injury or illness or lodging a workers compensation claim.
- A worker is to follow workplace procedures in notifying all incidents or accidents including workplace injury or illness.

Employer obligations on becoming aware of a (potential) workplace injury or illness:

- An employer is to keep an accurate written record of all notified incidents and workplace injury and illness;
- An employer should notify its agent within 48 hours of awareness of injury or illness.

(b) Encouraging parties to take appropriate action following notification of injury or illness:

- This strategy facilitates early intervention by encouraging parties to assess and take appropriate action upon notification of injury in accordance with the Occupational Rehabilitation Program which includes identifying:
 - Whether the injury or illness is likely to result in the injured or ill worker being totally or partially incapacitated for work;
 - Whether the injured or ill worker is likely to require ongoing medical treatment;

- Any risk factors that could lead to the injury becoming a long term injury or illness;
- Disputation of liability for a claim for workers compensation should not delay the development and implementation of the Rehabilitation Management Plan; and
- Initial contact with the injured worker and their treaters within 5 days of notice of injury.

(c) Promoting early lodgement and reporting claims for workers compensation

Injured workers' to lodge claims as soon as possible:

- The Act provides that an injured and/or ill worker must notify their employer within 30 days of becoming aware of injury or illness.
- Upon receiving notification of a workplace injury or illness the employer is to advise the injured and/or ill worker of their:
 - Entitlement to lodge a claim for workers compensation; and
 - The obligation to lodge the claims as soon as possible.

5.4 Effective communication, consultation, coordination and planning

Research identified that positive and continual communication, and involvement of the injured worker in the development and monitoring of their rehabilitation, are factors for successful RTW (ANF, 2007b). The strategies for promoting effective communication, consultation, coordination and planning are as follows:

(a) Encouraging clear, timely and non-threatening communication

This strategy encourages parties to communicate in a manner that is timely, clear, non-threatening and tailored to suit the injured and/or ill nurse.

Communication to be verbal where possible:

- Where possible communication should be verbal – face to face or by telephone, should supplement written communication.
- Oral Communication should be clear and non-threatening.
- Interpreting services should be used when necessary.

Written Communication

- Written correspondence to an injured and/or ill nurse should be clear, and non-threatening.
- Written information should be made available in other languages where required.

Timely Communication:

- From date of injury appropriate communication should be developed with the injured worker and treating practitioners, which are agreed upon.
- Timeframes for communication should be developed.

Encouraging continuing contact with the workplace and interaction with work colleagues

An employer is to encourage an injured worker, who is totally incapacitated (off work), to have continued contact with the workplace and work colleagues including:

- By inviting and encouraging the injured worker to participate in workplace social activities (observing any medical restrictions); and
- By providing the injured worker with any workplace communication i.e. staff meeting minutes.

(b) Promoting full and open disclosure of relevant information

Trust and knowledge are important components of effective communication. This strategy aims to foster trust and increase knowledge by encouraging parties to make full and open disclosure of relevant information wherever possible.

Full and open disclosure:

- All parties are striving for transparency in the rehabilitation process, by communicating in an open and honest manner and disclosing all information relevant to the rehabilitation process.

Information and consulting the injured nurse:

- Claim determination should be communicated to the injured nurse, and advised of factors that assist in determining liability for a workers compensation claim, and this should be followed up with written correspondence.
- Injured nurses are to be consulted, involved and participate in all aspects of their treatment and rehabilitation including RTW.

Disclosure of medical information:

- Pending their written consent/authorisation an injured nurse is to fully disclose information relating to their workplace injury and/or illness to their treating medical practitioners and where applicable an independent medical examiner, specific to the workplace injury and/or illness. This does not relate to disclosure of non-work related injuries and/or illness, and where this is requested nurses are to be advised to seek clarification from their union and/or independent representative.
- Medical practitioners will seek authorisation from the injured nurse to disclose information on the workplace injury and/or illness. The workers compensation claim form contains a medical release, however the AMA advise their members not to disclose information from this authority and require further information before they will disclose consent relating to the workplace injury and/or illness.

(c) Role of Return to work Coordinator – to facilitate effective return to work coordination

Research has identified deficiencies with RTW Coordinators meeting their responsibilities which included a:

- Lack of understanding of the workers compensation system.
- Failing to provide information on return to work, and rights and responsibilities to the injured worker.
- Inaccessibility.
- Limited decision making capabilities/power in the workplace.

The objective of this strategy is to provide clarity of the role of RTW Coordinators and to encourage a broadening of the role beyond the legislative obligations.

Legislative Obligations

S161 of the Act outlines the role of the RTW Coordinator.

Return to Work Coordinator Role

The RTW Coordinator is appointed by an employer whose role is to coordinate and facilitate the rehabilitation process for injured and/or ill nurses, and development of a rehabilitation management plan which includes return to work.

The RTW Coordinator responsibilities

Responsibilities should include:

- Coordinating rehabilitation and return to work.
- Developing and coordinating the rehabilitation management plans (RehabMP), which are individual plans.
- Treating the injured and/or ill nurse with care as an individual.
- Developing and maintaining relationships with the injured and/or ill nurse, their NUM/ANUM, and treating medical practitioners – but should not breach privacy.
- Facilitating open communication with the injured and/or ill nurses, their NUM/ANUM, and treating medical practitioners, and other relevant parties.
- Educating injured and/or ill nurses, their NUM/ANUM, and treating medical practitioners of the rehabilitation process and their roles and responsibilities.
- Arranging regular reviews and modifications of the Rehabilitation Management Plan, including practical review in the work environment to see how injured and/or ill nurses are managing their injury and/or illness and RTW.
- Where appropriate identifying early with the injured and/or ill nurse retraining and employment opportunities within the organisation that are aligned with medical restrictions.

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- Addressing issues before they impact on the rehabilitation of the injured and/or ill nurse.
- Having a comprehensive understanding of the injured nurse's injury and/or illness, its causes and of the work environment.
- Decision making power in the workplace.
- Maintaining documentation.
- Duties outlined in S161 of the Act.

Qualifications of RTW Coordinator

S156 of the Act outlines when an employer must appoint a RTW Coordinator. There are no specific qualifications for RTW Coordinators. However a 2 day training course has been developed by WorkSafe Victoria for RTW Coordinators. This is base level training and provides understanding of employer legislative obligations for RTW.

Employers should promote the appointment of and/or provide training for RTW Coordinators incorporating:

- Comprehensive knowledge of Legislation, including detailed understanding of practical application of workers compensation, rehabilitation and RTW.
- Conflict Resolution Skills – effective management and negotiation skills, to influence assertively in the workplace.
- Counselling skills – particularly understanding importance of empathy.
- Knowledge and understanding of injuries and the impact of injuries.

(d) Promoting appropriate rehabilitation planning – Rehabilitation Management Plan

This strategy is intended to improve the coordination and quality of the rehabilitation process by promoting appropriate rehabilitation planning, through development and application of a:

- A Rehabilitation Management Plan.

Rehabilitation Management Plan (RehabMP)

A Rehabilitation Management Plan is a comprehensive plan for coordinating and managing the treatment, rehabilitation and return to work of an injured and/or ill nurse. A Rehabilitation Management Plan must be:

Rehabilitation Model of Care for Injured and/or Ill Nurses in Victoria

- Realistic;
- Achievable; and
- Tailored to the individual's circumstances and needs.

A Rehabilitation Management Plan is to be developed and implemented where:

- An injured and/or ill nurse is likely to be totally or partially incapacitated for work, or is working to medical restrictions.

Proposed content of Rehabilitation Management Plan

A Rehabilitation Management Plan is to include:

1. Contact details for all parties.
2. Demonstration of consultation with the injured nurse, NUM/ANUM, treating Medical Practitioner in the development of Rehabilitation Management Plan.
3. Signed agreement by the injured nurse, NUM/ANUM, treating Medical Practitioner and RTW Coordinator:
 - To cooperate and comply with the Rehabilitation Management Plan.
4. Outline communication pathways.
5. Assessment of injury/illness.
6. Medical and Allied Health Management.
7. Offer of suitable duties.
8. Identify retraining where applicable.
9. Occupational Rehabilitation Services.
10. Roles and Obligations of all parties.
11. Scheduled dates for review.

Refer to appendix 5 for an example of a Rehabilitation Management Plan.

Development of Rehabilitation Management Plan

- A Rehabilitation Management Plan should be developed as soon as practicable from the date of injury - the plan should not be developed retrospectively.
- Disputation of liability for a claim for compensation should not delay the development or implementation of the Rehabilitation Management Plan.
- The RTWC is responsible for developing the Rehabilitation Management Plan in consultation with the injured nurse, NUM/ANUM, treating medical practitioners and any other relevant party.

Implementation of Rehabilitation Management Plan

- The RTWC is to coordinate the implementation of Rehabilitation Management Plan, including providing all parties with a copy of the Plan, and maintaining a complete copy.
- All parties are to comply with the Rehabilitation Management Plan.
- The RTW Coordinator is to ensure that the NUM/ANUM and co-workers are informed and necessary provisions are made in the workplace to support the injured nurse, including strategy to address any impacts on co-workers/workloads, etc.

Review of Rehabilitation Management Plan

- RTW Coordinator is to arrange for regular review of the Rehabilitation Management Plan and modify where necessary.
- The injured nurse, NUM/ANUM, treating medical practitioners and any other relevant party are to be involved in the review and/or modifications of the Rehabilitation Management Plan.

5.5 Timely and appropriate medical management

The strategies for improving and streamlining medical management are as follows:

(a) Recognising the central role of the primary treating medical practitioner

This strategy clarifies the primary treating medical practitioner's responsibilities:

- This strategy acknowledges that the primary treating medical practitioner plays a vital role in the treatment and rehabilitation process.
- The primary treating medical practitioner usually has continuing contact with the injured nurse and provides important information (e.g., certification of incapacity, work restrictions, diagnosis, and treatment) and can play a key role in the development and maintenance of the Rehabilitation Management Plan.

Who is the primary treating medical practitioner?

A primary treating medical practitioner is the general practitioner chosen by an injured nurse.

Role of the primary treating medical practitioner:

The primary treating medical practitioners responsibilities include:

- Providing diagnosis, primary medical care and coordination of medical treatment (including referral to and coordination of specialist care as appropriate);
- Completing workers compensation medical certificates;
- Monitoring, reviewing and advising on the injured nurses condition and treatment;
- Specifying work restrictions and advising on suitability of duties to be offered by the employer; and
- Participating in the development of the Rehabilitation Management Plan.

Specialists to keep primary treating medical practitioner informed:

Where an injured worker has been referred to a specialist, the specialist should ensure that the primary treating medical practitioner is informed of:

- The results of any diagnostic tests;
- Treatment provided;
- Changes to prescribed medication; and
- The specialist's diagnosis and prognosis.

Selection of primary treating medical practitioner:

An injured worker has the right to choose his or her primary treating medical practitioner.

Where an injured worker changes his or her primary treating medical practitioner, the worker is to:

- Advise the insurer and employer of the change; and
- Authorise the previous primary treating medical practitioner to release medical records relating to the work-related injury to the new primary treating medical practitioner.

(b) Promoting access to appropriate, high quality medical treatment

This strategy seeks to facilitate timely and appropriate medical management by promoting access to appropriate, high quality medical treatment.

Treatment:

Any treatment that is reasonable and necessary for the injured worker's recovery is to:

- Be provided as soon as possible;
- Be provided by the most appropriate service provider; and
- Should not be stalled by the determination of liability.

Payment of accounts:

- An injured worker is to take reasonable action to ensure that any account received for medical, rehabilitation and other compensable expenses is forwarded to the employer within seven (7) days.
- An employer is to forward to the Agent any account received to the insurer within seven (7) days and is to ensure that such accounts are paid within twenty eight (28) days of receipt by the employer.

(c) Reinforcing the medical certificate as an effective communication tool

The workers compensation medical certificate generally provides the first indication of an injured worker's work capacity and any medical restrictions the worker may have in returning to work. It can therefore assist in planning the injured worker's rehabilitation and return to work.

Certification of incapacity

The initial medical certificate should only provide total incapacity certification for a maximum of 14 days. Ongoing Medical Certificates should be for no longer than 28 days, except where agreed. There should also be provided a review date on the certificate.

If a treating medical practitioner anticipates that an injured worker will not be able to resume pre-injury hours and/or duties for a period of time on return to work, he or she is to note this on the medical certificate.

If at any time it becomes apparent to the treating medical practitioner that an injured worker will never be able to resume pre-injury hours and/or duties, the treating medical practitioner is to note the assessment and supporting reasons and to discuss with the injured/ill nurse, and is to outline this on the medical certificate as soon as possible.

(d) Encouraging timely responses to requests for information/reports

The rehabilitation process can be stalled by delays in responding to requests for medical information and/or reports. To ensure timely response it is necessary to outline at the onset of the workplace injury and/or illness expectations and develop communication channels.

Request for medical report to be specific:

Where a medical report is required, the request is to be clear, non-generic, and only request information specific to the individual case.

(e) Encouraging the use of evidence-based medical treatment guidelines

This strategy is intended to improve medical management by encouraging the use of evidence-based medical treatment guidelines.

What are evidence-based medical treatment guidelines?

Treatment guidelines may be used to identify preferred medical treatment for types of injuries and/or illness. Guidelines may be used by medical practitioners to assist with planning treatment, job modification and return to work recommendations (VWA, 2004; 2006).

(f) Clarifying the use of S112 independent medical examinations

Alternative medical opinions and medical reviews are often sought by the Authority, employer or self insurer when there are concerns about issues such as the diagnosis, proposed treatment, certified level of incapacity, etc. Where multiple opinions/reviews are sought this can result in inconvenience and stress for the injured worker, delays, and increased costs. This strategy addresses these issues by clarifying the process relating to medical examinations.

What is an independent medical examination?

An independent medical examination is a review, independent of employer/insurer, undertaken by a medical practitioner other than the injured nurse's primary treating medical practitioner in relation to one or more of the following matters:

- Diagnosis of the worker's injury;
- Medical treatment or proposed medical treatment;
- The medical information for treatment and/or RTW cannot be obtained;
- The degree of the injured worker's incapacity.

A S112 independent medical examination is generally requested by the Authority, employer, or self insurer.

A review generally includes an examination of the injured nurse, any diagnostic test results and medical records relating only to the workplace injury and/or illness which is the subject of the workers compensation claim.

Prior to seeking an independent medical examination, the employer/agent:

- Is to discuss the matters of concern with the injured nurse's treating medical practitioner; and
- Explain the process and objective of the independent medical examination to the injured and/or ill nurse.

S112 of the Act outlines that where an injured and/or ill nurse unreasonably refuses to attend an independent medical examination or unreasonably obstructs the examination, entitlements can be suspended.

Process for obtaining an independent medical examination:

Where an independent medical examination is required, the employer/insurer is to:

- Inform the injured nurse verbally and in writing, of the reasons for seeking such a review;
- Provide the rehabilitation and the primary treating medical practitioner with a copy of the review report; and
- Seek feedback from the injured nurse following the review and respond to the injured nurses concerns, if any, about the independent medical examination process.
- Provide adequate notice to the injured and/or ill nurse where they are required to attend an independent medical examination, advising nurses they have a right to seek/receive advice legal and/or from their union representative if they require further clarification regarding independent medical examinations.

Disclosure of review report to the injured worker:

The injured and/or ill nurse has rights to receive a copy of the independent medical examination report, except where there is information that would pose a serious threat to the life or health of the worker, which must not be released except in accordance with the Health Records Act.

An employer has no authority to receive this information, which is a breach of privacy under the Privacy Act and the Health Records Act.

(g) Promoting minimisation and appropriate resolution of disputes about medical management

Disputes about medical management can lead to:

- Delays in treatment;
- Increases in costs; and
- Additional stress on the injured nurse.

Ultimately, this may have an adverse impact on the injured nurse's recovery. This strategy seeks to address these issues by introducing means to minimise and resolve disputes about medical management.

Minimising disputes:

Employers and any associated service providers are to ensure that all decisions relating to medical management are made fairly and in the best interests of the injured nurse. The injured nurse is to be provided with reasons for any such decision.

All parties are to aim to proactively defuse potential disputation and take reasonable measures to communicate with the other parties to achieve the amicable resolution of conflicts.

Resolving disputes:

Where a dispute arises in relation to a medical management issue, including (but not limited to) the reasonableness of or necessity for an expense incurred by an injured nurse for a medical, rehabilitation or other compensable service, all parties are to be committed to resolving the dispute as expeditiously and cooperatively as possible.

5.6 Early, sustainable, safe, durable and meaningful return to work – workplace based where possible

The strategies for facilitating early, sustainable, safe, meaningful and durable return to work are as follows:

(a) Workplace based coordination of return to work

This strategy ensures that the worker has workplace based support and assistance in returning to work by requiring that there is a person coordinating the rehabilitation and return to work process at the workplace.

(b) Promoting Return to Work

Research indicates a work centred approach to recovery from injury and/or illness is a factor for successful return to work (ANF, 2007b). The strategy aims to ensure return to work in the pre-injury role and with the pre-injury employer.

The primary objective should be to retain nurses in their pre-injury nursing role, there are circumstances where injured and/or ill nurses will never be able to return to work in any capacity. The focus needs to shift to restoration of functional capabilities and restoration of quality of life and again should be identified early.

RTW to pre-injury role may not be possible for some nurses due to the nature of their workplace injury and/or illness and this should be identified early. The medical practitioner, injured and/or ill nurse and employer should be in agreement to identify alternatives.

In the first instance, this involves Internal Vocational Rehabilitation and where this is identified as not feasible External Vocational Rehabilitation. Internal and External Vocational Rehabilitation should include:

- Career Counselling, to assist in identifying career opportunities that are aligned with medical restrictions;
- Appropriate vocational education and re-training, which includes other practical development for this new role.

Rehabilitation and Return to Work Planning

There are a number of phases that an injured nurse will go through as part of the rehabilitative process following a workplace injury and/or illness. It is limiting to focus on RTW, as RTW is only one component of the rehabilitative process.

Both the employer and injured and/or ill nurse have legislative obligations for RTW, as outlined on p13 & p9. Rehabilitation planning has to include, for both the employer and injured nurse:

- A commitment to recovery and return to work following a workplace injury and/or illness.

This strategy aims to ensure that in rehabilitation and return to work planning that all parties work together through co-operation, collaboration and consultation in achieving determined goals for rehabilitation of the individual injured and/or ill nurse, which can be supported and implemented in the workplace.

The involvement of the individual injured and/or ill nurse is crucial, as they will know best what they can and/or cannot do. Furthermore, involvement in the development of the RTW plan:

- (a) Allows for ownership of injury;
- (b) Diminishes focus on RTW compliance; and
- (c) Allows for the plan to be tailored to the individual's circumstances (ANF, 2007a; 2007b; 2007d).

(c) Reinforcing employer obligations with respect to rehabilitation and return to work

This strategy aims to improve rehabilitation and return to work by through reinforcing employer obligations to keep the injured nurse's job open for 12 months, and provide suitable and meaningful alternative duties.

Obligation to keep the injured nurse's job open:

An employer is to keep an injured nurse's job open for a minimum period of 12 months from the date the worker became incapacitated except where exempted as outlined in S155B.

Return to Work Duties and Employment Opportunities

Employers are encouraged to develop:

- RTW duties and employment opportunities that support RTW, which encompasses the range of knowledge, skills, experience and expertise which nurses have.

Obligation to provide suitable duties:

S155A outlines employer obligations to provide suitable employment.

Employers are encouraged to provide sustainable, safe, meaningful and durable RTW duties:

- (a) Sustainable RTW duties - reflecting capabilities:
 - (i) Of the injured and/or ill nurse to undertake duties;
 - (ii) Of the employer to accommodate the duties, which could include redesign of duties.
- (b) Safe RTW duties – assess and diminish the risk of further injury and/or recurrence.
- (c) Meaningful RTW duties – of value to the injured nurse and employer.
- (d) Durable RTW duties – long term focused.

Identification of sustainable, safe, meaningful and durable RTW duties:

- Injured nurses are to be involved in the identification and selection of suitable and meaningful alternative duties.
- The primary treating medical practitioner is to assess whether proposed alternative duties are medically suitable/appropriate and to discuss this assessment with the injured nurse, employer, RTW Coordinator and occupational rehabilitation provider (if one is appointed).
- Duties and hours must comply with medical restrictions and agreed Rehabilitation Management Plan.

Providing feedback:

An injured and/or ill nurse is to provide regular feedback to the RTW Coordinator on their return to work progress. To ensure this occurs, the injured and/or ill nurse needs to be supported in the workplace and be able to communicate their health situation in the workplace as necessary.

(d) Requiring regular review of work capacity, including appropriate consideration of retraining and redeployment options

This strategy ensures that rehabilitation and return to work processes assess and reflect change. Review and modification is necessary to ensure that these processes remain appropriate and that where necessary, retraining, re-education and redeployment options are considered in a timely manner.

Regular assessment of work capacity:

Where incapacity exceeds a continuous period of 6 months, there needs to be agreement from the injured and/or ill nurse, their NUM/ANUM, treating medical practitioner/allied health and other stakeholders, that the RTW Coordinator is to ensure that an injured nurse's capacity for work is assessed, including consideration of modifying the Rehabilitation Management Plan, and Internal Vocational Rehabilitation options are assessed at 6 monthly intervals until the claim is closed.

Assessing the need for retraining and/or redeployment:

Where considered medical evidence indicates that return to the pre-injury role is unlikely/not recommended, the RTW Coordinator is to ensure that measures are taken to review, assess, consider and implement appropriate vocational re-education, retraining and redeployment options as outlined on p46.

(e) Encouraging appropriate referral to occupational rehabilitation providers

This strategy acknowledges that in more complex cases, it may be appropriate to appoint an occupational rehabilitation provider (Occupational Rehabilitation Provider) to provide additional support and manage the delivery of appropriate rehabilitation.

Occupational Rehabilitation Provider can be an effective resource for both injured nurses and employers, particularly where Occupational Rehabilitation Provider is utilised early in the rehabilitation process. The role and expectations of the Occupational Rehabilitation Provider should be agreed for both the injured nurse and employers.

Choosing an Occupational Rehabilitation Provider:

S99 of the Act outlines that injured and/or ill nurses are entitled to choose an occupational rehabilitation provider and/or occupational rehabilitation services.

Liaison with stakeholders:

The Occupational Rehabilitation Provider is to liaise with the injured and/or ill nurse, their NUM/ANUM, RTW Coordinator, treating medical practitioner/allied health professionals and other relevant stakeholders where appropriate.

Replacing an Occupational Rehabilitation Provider:

An injured nurse may request the appointment of an alternative Occupational Rehabilitation Provider where there has been a breakdown in the relationship between the worker and the occupational rehabilitation provider.

Resolving disputes in relation to the appointment of Occupational Rehabilitation Provider:

If there is any dispute in relation to the appointment of an occupational rehabilitation provider, the matter may be referred to the Accident Compensation Conciliation Service (ACCS) for resolution.

(f) Promoting minimisation and appropriate resolution of disputes about rehabilitation and return to work

Disputes about rehabilitation and return to work can adversely impact on the employer/nurse relationship, and jeopardise rehabilitation of the injured and/or ill nurse. We would encourage expeditious resolution of disputes regarding rehabilitation and return to work.

Minimising disputes:

We would encourage that all decisions relating to rehabilitation and return to work are made fairly, in a non-discriminatory manner and in the best interests of the injured and/or ill nurse. Any issues for dispute are to be communicated to and by the injured and/or ill nurse in a transparent manner. The primary goal should be to defuse the potential disputation and to achieve amicable resolution of conflicts.

Where there is no resolution an injured and/or ill nurse has the right to have the matter referred for conciliation at the ACCS. This is the dispute resolution process provided for under the Act.

5.7 Monitoring for better long-term outcomes

The strategies to facilitate monitoring for better long-term outcomes are as follows:

(a) Requiring collection of relevant data

Collection of relevant data is essential to enable monitoring and review of the Rehabilitation Model of Care. This strategy requires the employer to collect relevant data and report on this data to identify preventative measures to minimise risk of injury and/or illness in the workplace.

(b) Introducing review and evaluation mechanisms

This strategy aims to facilitate continuous improvement and better long-term outcomes by introducing review and evaluation mechanisms.

The employer should review data collected and any other relevant information, including stakeholder feedback (yearly survey of stakeholders), to monitor the outcomes and overall effectiveness of the implementation of the Rehabilitation Model of Care, with a commitment to continual improvement.

Appendix 1. Brief Overview of the Workers' Compensation Claim Process
 - Lodging of claim and Liability determination process

S101 – Outlines employer responsibilities to provide in the workplace incident notification forms and registers of injuries, communicate to their employees, advise of their rights to lodge a workers compensation claim and provide workers compensation claim form.

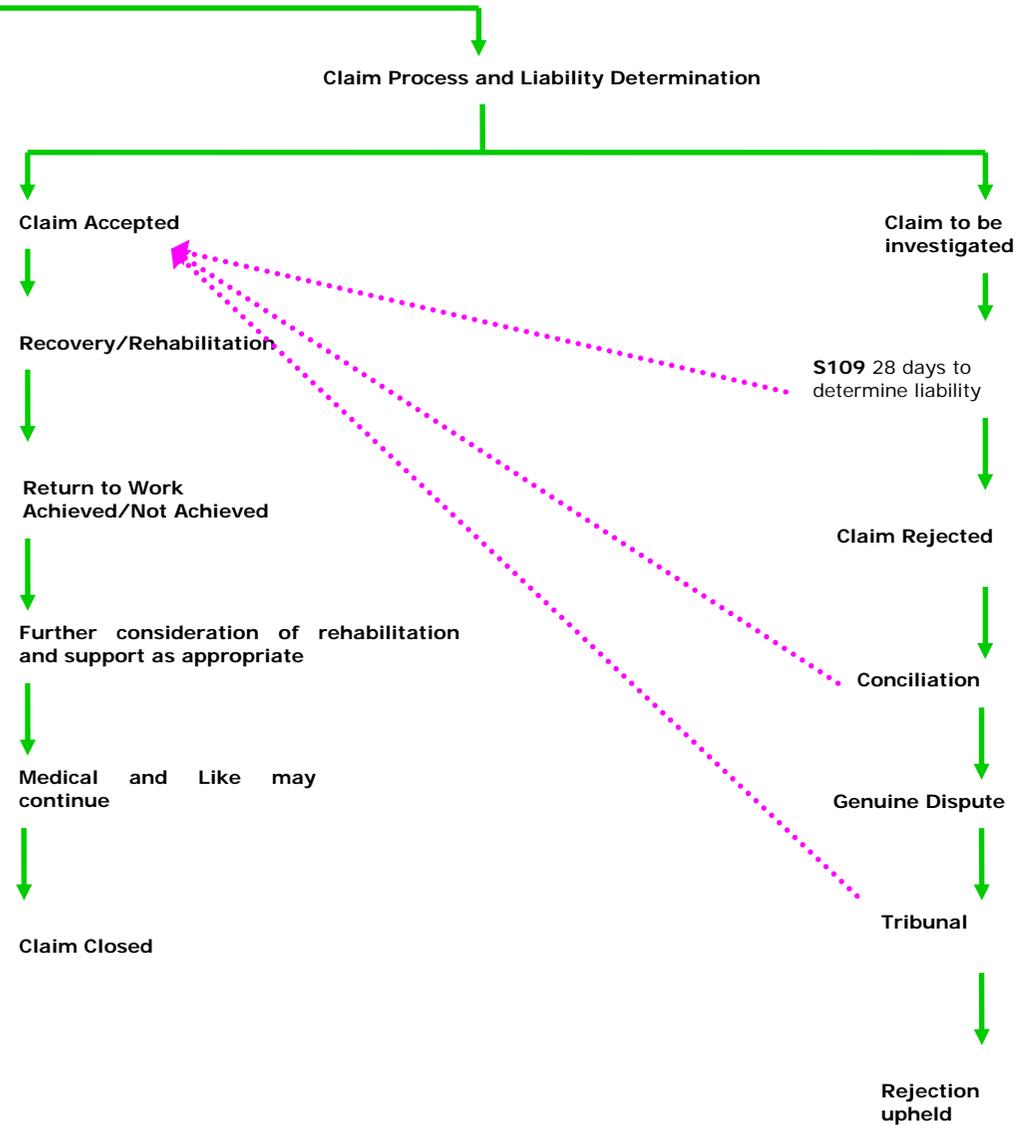
S102 - An Employee has 30 days to notify employer of injury and/or illness.

S103 – To lodge a claim for workers compensation the injured nurse must fill in an appropriate workers compensation claim form.

S105 – for a time loss claim, the injured nurse must provide a workers compensation medical certificate which identifies capacity and/or incapacity for work.

S108 - On receipt of a workers compensation claim the employer has 10 days to forward this to their Agent. The employer must advise the injured nurse that they have received the claim.

Entitlement to workers compensation will be determined upon receipt of the claim by the Agent, who will advise the injured nurse within 5 days of how the claim will proceed:



Appendix 2. Overview Return to Work Legislative Obligations

S156 - Employer legislative obligation to develop and maintain:

- (a) Occupational Rehabilitation Program, S158; and
- (b) Risk Management Program, S159.



S156 – No later than 10 days after the relevant day the employer must, S156 (3):

- (a) Prepare a return to work plan in respect of the injured and/or ill nurse;
- (b) Nominate a return to work coordinator, S158.



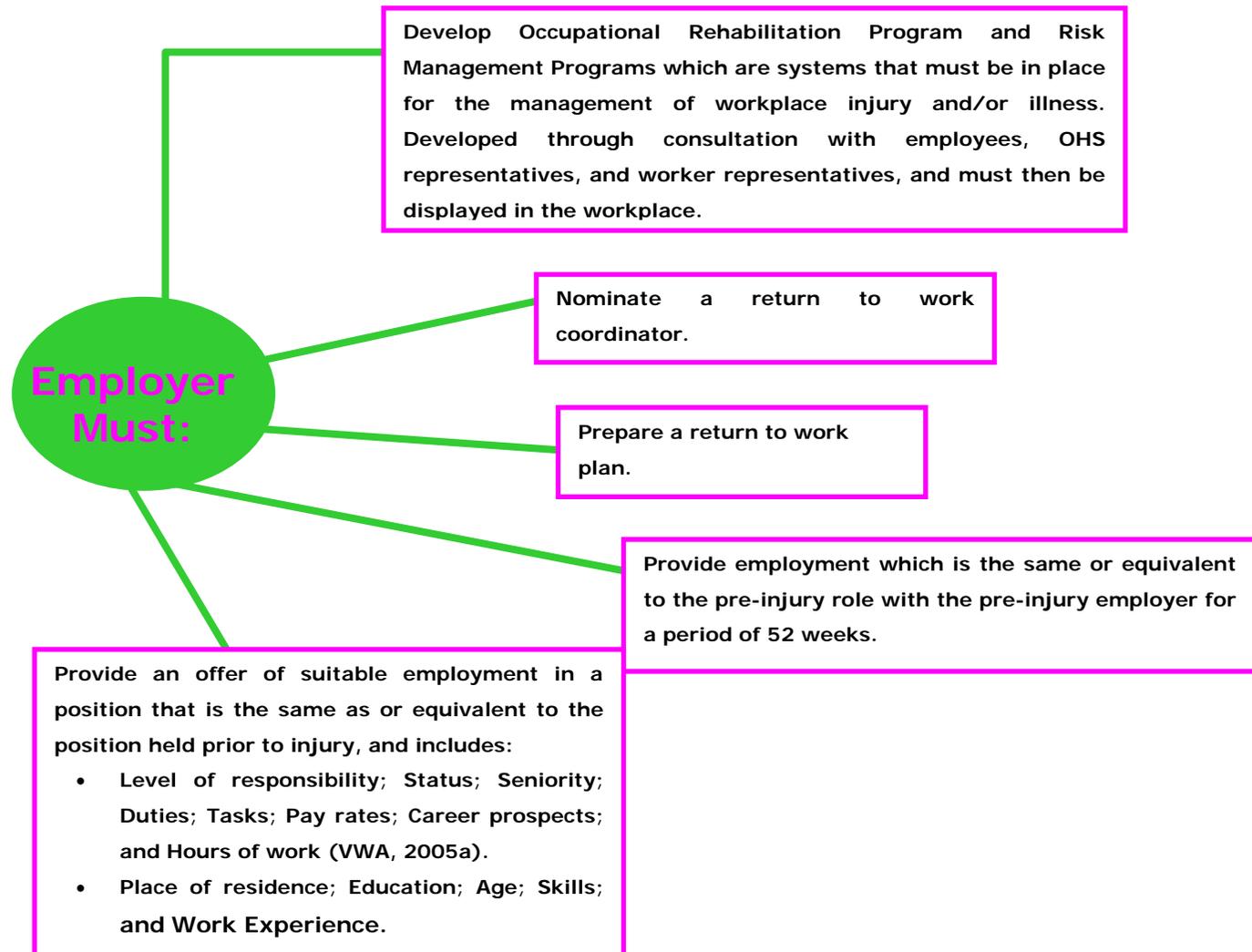
S160 – A return to work plan must include:

- (1)(a) The name of the injured worker;
 - (i) An estimate of the date that the injured worker should be fit to RTW;
 - (ii) An offer of suitable employment, S155A; and
 - (iii) Steps taken to facilitate the RTW.
 - (b) Specify Occupational Rehabilitation Services for the RTW and maintenance at work.
- (2) To be revised as often as necessary during the workers incapacity for work.



S155A(2) – If the worker no longer has an incapacity for work or has a current work capacity the employer must provide the worker -

- (a) employment in a position which is the same or equivalent to, the position held before the injury;
- (b) if the worker has a current work capacity, with suitable employment.



Appendix 3. Overview of Injured and/or Ill Worker’s Return to Work Legislative Obligations S93CA and S93CB

S93CA and **S93CB** outline an injured and/or ill workers’ legislative obligation for return to work, from date of incapacity and to 130 weeks.⁵

S93CA(3)(a) and **S93CB(3)(a)** outlines where a worker has no current work capacity, is entitled to receive weekly payments only if the worker –

- (i) makes every reasonable effort to participate in an occupational rehabilitation service or a return to work plan; and
- (ii) makes every reasonable effort to return to work in suitable employment; and
- (iii) participates in assessments of the worker’s capacity, rehabilitation progress and future employment prospects when requested to do so from time to time by the employer or self-insurer or the Authority.

S93CA(3)(b) and **S93CB(3)(b)** outlines where a worker has a current work capacity, is entitled to receive weekly payments only if the worker

- (i) participate in an occupational rehabilitation service or a return to work plan; and
- (ii) return to work in suitable employment at the worker’s place of employment in co-operation with the employer and the Authority or with the self-insurer (as the case may be); and
- (iii) where the worker’s employer cannot provide suitable employment, makes every effort to return to work in suitable employment at another place of employment; and
- (iv) participates in assessments of the worker’s capacity, rehabilitation progress and future employment prospects when required by the employer or self-insurer or the Authority.

S93CA(4) and **S93CB(4)** outline that if a worker does not make reasonable effort to participate, entitlement to further weekly payments shall cease and determine.

Injured and/or ill nurse must:

Participate in a Return to Work Plan.

Return to Work in suitable employment at your place of work in cooperation with your employer.

Where your employer cannot provide suitable employment, participate in return to work in suitable employment at another place of employment.

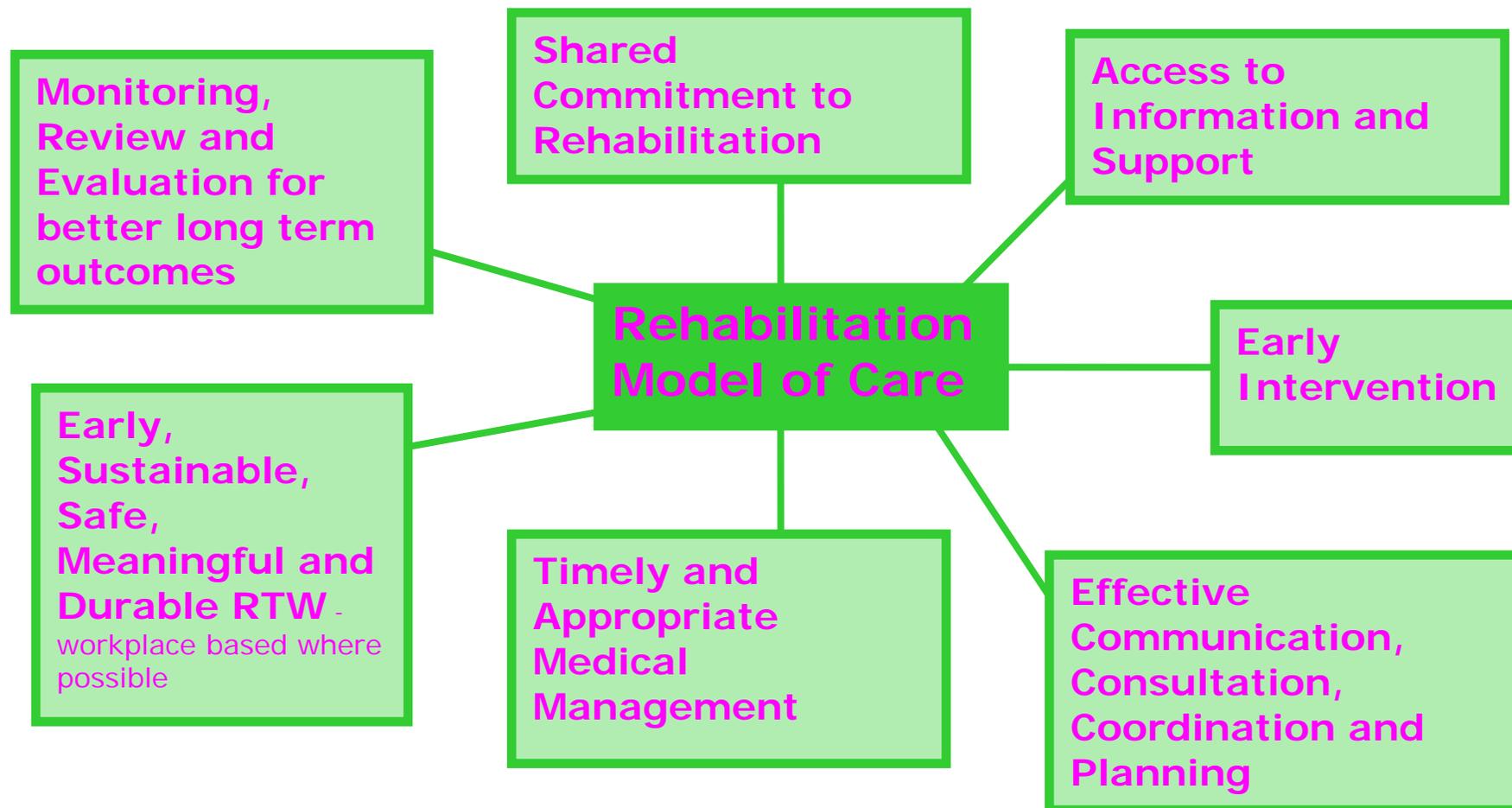
Participate in assessment, where requested, of:

- Capacity for work, ie functional assessment;
- Rehabilitation progress, ie independent medical assessment; and
- Future employment prospects, ie Vocational Assessment and Job seeking Assistance.

Participate in Occupation Rehabilitation Service include:

- Initial Occupational Rehabilitation Assessment -
- Functional Assessment;
- Occupational Rehabilitation Counselling;
- Work Conditioning;
- Workplace Assessment;
- Job Analysis;
- Household Help Assessment;
- Vocational Education and/or Assistance;
- Vocational Assessment new employer; and
- Job Seeking Assistance.





Appendix 5. Rehabilitation Management Plan

Rehabilitation Management Plan Template for XXX

| | |
|----------------|--|
| Name | |
| Date of Injury | |
| Injury Type | |

Demonstration of Consultation:

(with injured nurses, NUM/ANUM and treating Medical Practitioner and other key stakeholders)

Agreed Communication Pathways:

Assessment of Injury/Illness:

(outlines any issues that could impact on rehabilitation)

Medical and Allied Health Management:

Rehabilitation Goals:

(includes RTW)

Appendix 5. Rehabilitation Management Plan

Outline and Identify Suitable Duties:

Detail RTW duties and Hours

Week Commencing XXX

Week 1

Week 2

Week 3

Week 4

Occupational Rehabilitation Services

(as outlined on p6)

Vocational Rehabilitation:

(includes internal and external vocational rehabilitation, and to be identified early)

Appendix 5. Rehabilitation Management Plan

Health and Wellbeing:

XXX feels supported in the workplace and feels able to communicate their health situation as necessary. XXX to let XXX know in the first instance if they are unable to remain at work, if XXX is not available to contact RTW Coordinator. XXX to contact RTW Coordinator where the rehabilitation plan needs to be revised.

Review:

(including RTW Coordinator workplace visits)

Agreement

I have reviewed the proposed Rehabilitation Management Plan and agree with the Program. I have been given the opportunity to gain advice from my union representative. Please sign where indicated and return this page to XXX.

Signed:

Date:.....

Signed:

Date:.....

Signed:

Date:.....

Signed:

Date:.....

Contact Details:

| | |
|--|--|
| Name | |
| Telephone & Address | |
| Manager | |
| Telephone & Address | |
| Medical Practitioner/Allied Health Professionals | |
| Telephone & Address | |
| RTW Coordinator | |
| Telephone & Address | |
| Agent | |
| Telephone & Address | |

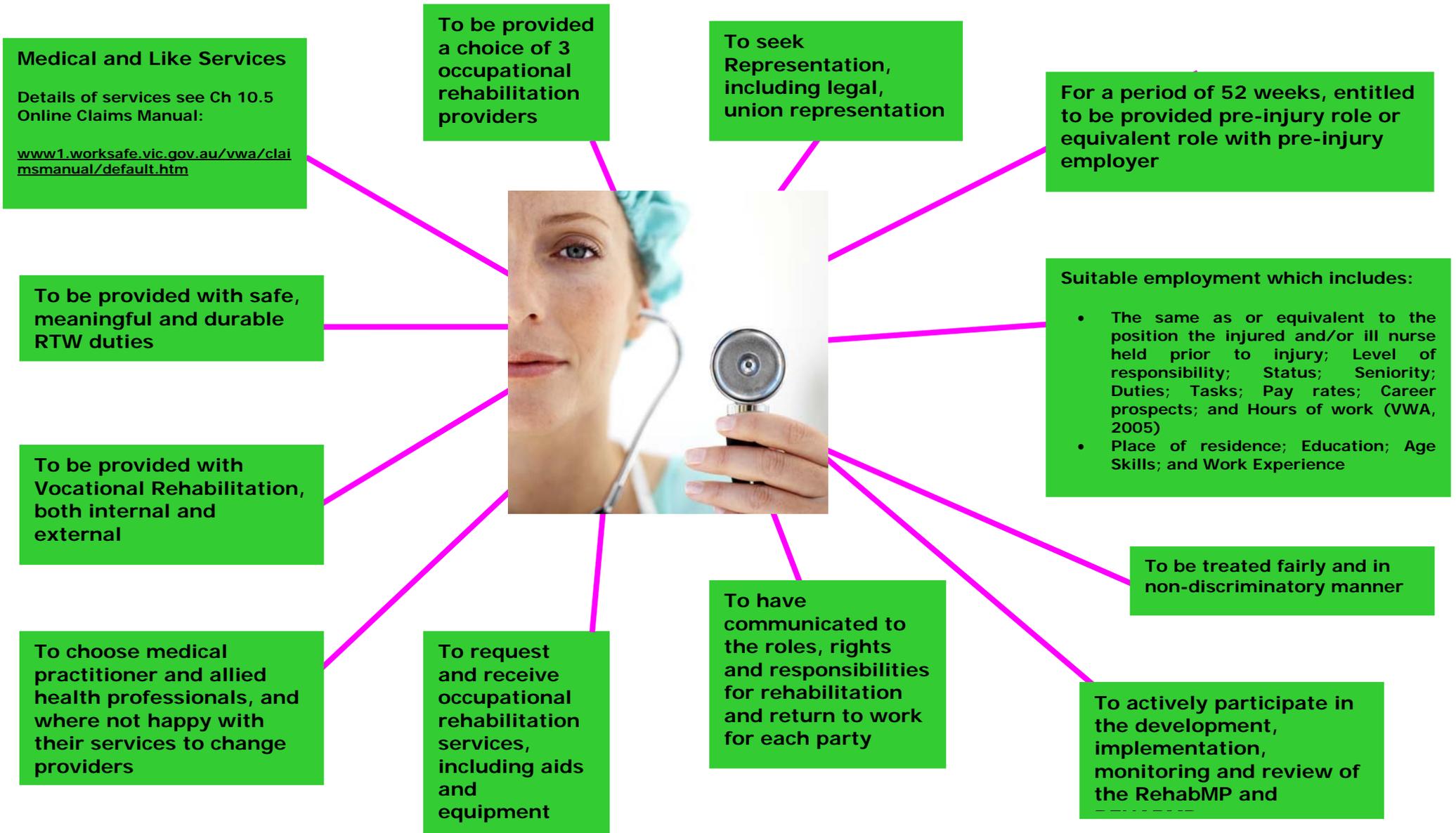
Appendix 6 RehabMoC Roles and Responsibilities

| Injured Worker | Provide a safe work environment | Diagnose Injury and/or Illness Communication (be Open, Transparent and Continual) | Ongoing claim management Communication (be Open, Transparent and Continual) | Communication (be Open, Transparent and Continual) Recognise the importance of rehabilitation in aiding recovery | Communication (be Open, Transparent and Continual) Return to work Process, Rights and responsibilities |
|--|---|---|---|--|---|
| <p>Early Notification of Injury</p> <p>Lodge a Workers' Compensation claim</p> <p>Communication (be Open, Transparent and Continual)</p> <p>Actively participate in development of RehabMP</p> <p>Actively participate in RehabMP</p> <p>Recognise the importance of rehabilitation in aiding recovery</p> <p>Consider relevant rehabilitation and other support</p> | <p>Promote early notification of injury/incident and claim lodgement</p> <p>Communication and consultation (be Open, Transparent and Continual)</p> <p>Manage Workplace Injury</p> <p>Explain entitlement to workers compensation, rehabilitation and return to work process</p> <p>Develop and implement individualised RehabMP</p> <p>Educate workforce on consequence of injury, workers compensation and rehabilitation</p> <p>Promote support and cooperation by NUM/ANUM and co-workers</p> <p>Recognise the importance of early intervention and rehabilitation in aiding recovery</p> <p>Medical Practitioner/Allied Health Practitioner</p> | <p>Respond to requests for information/reports in a timely manner</p> <p>Actively participate in development of RehabMP</p> <p>Actively participate in RehabMP</p> <p>Recognise the importance of rehabilitation in aiding recovery</p> <p>Access relevant information and training on workplace injury and/or illness and its management</p> <p>Agent</p> | <p>Recognise the importance of rehabilitation in aiding recovery</p> <p>Approve treatment and other rehabilitation services in a timely manner</p> <p>Ensure access to necessary aids and supports to promote recovery</p> <p>Occupational Rehabilitation Provider</p> <p>Assist and Support rehabilitation and return to work</p> | <p>Assist nurses to identify supports and goals to aid and achieve maximum possible recovery and restoration in a holistic manner</p> <p>Return to Work Coordinator</p> <p>Develop and maintain relationships with injured nurse, NUM/ANUM, medical practitioner and other stakeholders</p> | <p>Develop, implement and regularly review individualised RehabMP</p> <p>Recognise the importance of rehabilitation in aiding recovery</p> <p>Comprehensive knowledge of injury and/or illness and the work environment</p> <p>Coordinate appropriate service and support for rehabilitation and return to work</p> |
| Employer | | Determine Liability of Claim | | | |



Appendix 7 Overview of Injured and/or Ill Nurses Entitlements

(where the workers' compensation claim has been accepted)



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