



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

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HSE HR Circular 29/2008

**To: Each Asst. National Director, PCCC
Each Hospital Network Manager
Each Asst. National Director, HR
Each Employee Relations Manager, HSE Areas
Each HR Manager, Voluntary Hospitals**

**c.c: National Director, National Hospitals Office
National Director, PCCC
National Director, Finance
Director, Nursing Services**

26th November 2008

Re: Insurance Based Mechanism to address Significant Trauma

Dear Colleague,

The Government has conveyed approval to the HSE for the establishment of an Insurance Based Mechanism to address significant trauma for exceptional cases where a serious assault occurred on a nurse working in the mental health services and resulted in Post Traumatic Stress Disorder (PTSD). The Insurance Based Mechanism is attached.

The establishment of the Insurance Based Mechanism was included in proposals from the Labour Relations Commission on 14 May 2008 following discussions with the PNA / SIPTU involving the HSE and officials from the Department of Health and Children and Department of Finance. The Mechanism will provide a fixed quantum of compensation in respect of Post Traumatic Stress Disorder arising from trauma in exceptional cases and in line with conditions laid down.

In summary, the Insurance Based Mechanism provides for an award of €15,000 in particular instances where a psychiatric nurse is:

- Threatened with
 - Death
 - Serious injury
 - A viable weapon (including a syringe used as a weapon)
 - Sexual assault

- Held hostage, attempted or completed kidnap, false imprisonment or prevented egress from a closed space of more than two hours duration.
- Persistent and intrusive stalking over a prolonged period, verifiable threatening behaviour while off duty by a patient or former patient.
- Strangulation
- PTSD (as defined in the WHO International Classification of Diseases Version 10 (see Mechanism for details))

A claim under the Insurance Based Mechanism will only be considered once the full terms of the Mechanism have been satisfied. The Insurance Based Mechanism is only to be used following an assault by a patient where no physical injury occurs, or where a physical injury occurs which has not led and will not lead to a claim under the Insurance Based Scheme, and which results in a recognised psychiatric condition (WHO ICD listings) which can be medically verified.

The Mechanism will deal with exceptional cases which are not covered by the Insurance Based Scheme as outlined in HSE HR Circular 04(A)/2008.

The Insurance Based Mechanism came into operation on 15 July 2008.

Reporting of Incidents

All incidents are required to be reported through the appropriate channels within 48 hours of their occurrence.

Claims Procedure

The claims procedure for the scheme is consistent with that already in place for other types of insurance claims under HSE insurance policies.

A claim should be lodged by or on behalf of the claimant within six calendar months of the assault. The various stages of procedure in such eventuality are:

1	Claim notified by employer to HSE
2	HSE notify Irish Public Bodies Mutual Insurance Ltd (IPB)
3	IPB issue claim form to HSE
4	Claim form completed by injured employee
5	Medical certification section of claim form completed by employee's doctor
6	Completed claim form returned to HSE
7	HSE forward claim form to IPB
8	IPB validate claim and issue cheque

Arbitration Mechanism

A joint arbitration Mechanism will be put in place to deal with situations where disallowance of a claim is not accepted.

Review

The operation of the Insurance Based Mechanism will be reviewed twelve months from date of commencement.

Enquiries regarding the operation of this circular should be directed to Mr. Brendan Mulligan, Assistant Chief Executive-Industrial Relations, HSE – Employers Agency;63/64 Adelaide Road, Dublin 2; telephone: 01-6626966; email: brendana.mulligan@hse.ie.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'SM', is written over a horizontal line.

Sean McGrath
National Director of Human Resources

Encl.

Insurance Based Mechanism to address Significant Trauma

The Insurance Based Mechanism will apply in cases of Significant Trauma to a Psychiatric Nurse while carrying out assigned duties (other than while off duty as outlined at the third bullet point of Appendix A). This mechanism is only to be used following an Assault by a Patient where no physical injury occurs, or where a physical injury occurs which has not led and will not lead to a claim under the Insurance based Scheme, and which results in a recognised Psychiatric condition (*as per ICD 10 Listings*) which can be medically verified.

Conditions of Insurance Based Mechanism

The Insurance Based Scheme should be used in all but exceptional instances. Injuries addressed under the Insurance Based Scheme cannot be considered under the Insurance Based Mechanism.

This mechanism will deal with exceptional cases which are not covered by the Insurance Based Scheme.

The Insurance Based Mechanism only relates to cases of assault of a Psychiatric Nurse by a patient as defined below *

Insurance Based Mechanism relates to an assault with no physical injury leading to a claim under the Insurance based Scheme.

The mechanism applies only to the person assaulted and does not extend beyond this person.

An Application can be made on behalf of an incapacitated applicant by their representative.

Any self injury subsequent to the assault is not covered in this scheme.

An injury sustained in the context of restraint must be shown to have occurred while restraining a patient using an approved technique and approach in compliance with the Code of Practice on the Use of Physical Restraint in Approved Centres issued by the Mental Health Commission.

Claims must be lodged by or on behalf of the Claimant, within six calendar months of the Assault.

Applicants will be obliged to release all medical records (including full medical records predating the assault). Failure to do so will disqualify the claim.

Incomplete or falsification of information relating to the claim including submitted medical records will invalidate the claim and may result in recovery of any payments awarded.

Any deliberate attempt to withhold Medical history or assessment will cause the claim to be discontinued.

All medical reports must be submitted in a timely manner.

All relevant medical or clinical tests results (lab, image, physiotherapy, psychological assessments etc) must be submitted in a timely manner.

The claimant must undergo independent psychiatric & medical assessments (which may include relevant specialist medical practitioners).

Where medical treatment has been prescribed (e.g. physiotherapy, forms of psychotherapy, medications etc) the applicant is expected to fully cooperate with all treatments in order to restore their health.

Staff will be expected to assist or act as witnesses in the hearing of any related case that may be taken against a known Assailant(s)

HSE aims to press charges where staff are assaulted - if it is possible given the Legal capacity of the assailant(s) at the time of assault.

The independent medical assessment will have access to the complete medical records including the previous medical records.

All parties will be obliged to make available all relevant documentation within their power of procurement and possession relating to the assault and any other relevant detail or records requested.

The circumstances of the assault and the context in which the assault occurred will be subject to an incident review.

Witnesses to the assault will be required where available. If there is no witness some form of independent verification will be required. (wording subject to approval by insurers)

All Psychiatric Nurses are expected to participate in any *Management of Aggression & Violence Training* provided / offered by employer consistent with HSE policy which will be informed by the Joint Working Group on Managing Violence and Aggression in the Workplace.

Refusal or failure to participate in such training may debar a Psychiatric Nurse from inclusion in the mechanism.

Mechanism relates to Psychiatric Nurses while carrying out assigned duties and while directly employed by HSE only. (Other than when off duty as outlined at the third bullet point of Appendix A)

Claims must relate to recognised conditions as classified in the ICD-10 Classification of Mental and Behavioural Disorders.

The applicant must co-operate with all prescribed treatments. If they do not co-operate awards may be held over for a defined period pending the outcome of current treatment programmes.

No compensation will be payable where the claimant and the perpetrator of the assault were living together as members of the same household at the time the injuries were inflicted.

No compensation will be payable to an applicant who has not given all reasonable assistance, in relation to any information or reports that it may require.

No compensation will be payable in respect of injuries inflicted in a traffic offence except in the case where there has been a deliberate attempt to run down the claimant.

No compensation will normally be payable where the claimant has, by acting outside the scope of practice, contributed to the event giving rise to his/her injuries. (wording subject to approval by insurers)

All aspects of this process will be carried out with the utmost sensitivity to the individual and their circumstances and will be wholly confidential to the process.

Any award is without prejudice and does not suggest or confer guilt upon a third party who is alleged to have perpetrated the assault.

These guidelines will operate in conjunction with the procedures and/or conditions as laid down by the Insurance operators.

The operation of the Insurance Based Mechanism will be reviewed 12 months from the date of commencement.

The Operation of this scheme will require Government Approval, as per LRC Agreement of May 10th 2008.

Definition of Terms.

A 'Patient' describes;

*A Person in the Community who is or has been a Patient of Psychiatric Services.

A Person presenting for or receiving periodic or ongoing treatment at any Clinic or Hospital or Day Care Centre of the Mental Health Services (task Force Definition)

Appendix A)

The Insurance Based Mechanism will apply in cases of Significant Trauma to a Psychiatric Nurse carrying out assigned duties (other than when off duty as outlined at the third bullet point below). This mechanism is only to be used following an Assault by a Patient where no physical injury occurs, or where a physical injury occurs which has not led and will not lead to a claim under the Insurance based Scheme, and which results in a recognised Psychiatric condition (*as per ICD 10 Listings*) which can be medically verified.

The Insurance Based Mechanism provides for an award in the following instances (*listed below in Appendix A*) of €15,000.

The particular instances are where a Psychiatric Nurses is;

- Threatened with;
 - Death,
 - Serious Injury
 - A viable Weapon (including a Syringe used as a weapon)
 - Sexual Assault
- Held Hostage, Attempted or Completed Kidnap, False Imprisonment or Prevented egress from a closed space of more than 2 hours duration
- Persistent & Intrusive Stalking over a prolonged period, Verifiable threatening behaviour while off duty by a Patient or former Patient
- Strangulation
- PTSD (*as defined in ICD 10 see below*)

The ICD-10 Classification of Mental and Behavioural Disorders Diagnostic Criteria for research

World Health Organization
Geneva

F43.1 Post-traumatic stress disorder

A. Exposure to a stressful event or situation (either short or long lasting) of exceptionally threatening or catastrophic nature, which is likely to cause pervasive distress in almost anyone.

B. Persistent remembering or "reliving" the stressor by intrusive flash backs, vivid memories, recurring dreams, or by experiencing distress when exposed to circumstances resembling or associated with the stressor.

C. Actual or preferred avoidance of circumstances resembling or associated with the stressor (not present before exposure to the stressor).

D. Either (1) or (2):

(1) Inability to recall, either partially or completely, some important aspects of the period of exposure to the stressor

(2) Persistent symptoms of increased psychological sensitivity and arousal (not present before exposure to the stressor) shown by any two of the following:

- a) difficulty in falling or staying asleep;
- b) irritability or outbursts of anger;
- c) difficulty in concentrating;
- d) hyper-vigilance;
- e) exaggerated startle response.

E. Criteria B, C and D all occurred within six months of the stressful event, or the end of a period of stress.

(For some purposes, onset delayed more than six months may be included but this should be clearly specified separately.)