



Aboriginal and Torres Strait
Islander health practice
Chinese medicine
Chiropractic
Dental
Medical
Medical radiation practice
Nursing and Midwifery

Occupational therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Australian Health Practitioner Regulation Agency

Fact sheet: Professional indemnity insurance arrangements

Date of issue: 6 January 2016

Introduction

The Health Practitioner Regulation National Law Act (National Law), as in force in each state and territory provides that a registered health practitioner must not practise the profession in which they are registered unless appropriate professional indemnity insurance arrangements (PII arrangements) are in force in relation to their practice. Requiring registered health practitioners to hold appropriate PII arrangements is an important part of how the National Scheme protects the public by addressing the risk posed by uninsured practitioners.

Each National Board must develop and recommend to Ministerial Council for approval a registration standard that describes the requirements for PII arrangements for registered health practitioners in their profession. A PII arrangements registration standard is published on each National Board website.

Who needs to use this fact sheet?

This fact sheet has been developed for registered practitioners and those seeking to become a registered health practitioner.

It supplements the information in the National Boards' PII arrangements registration standards and explains what the requirement for PII arrangements means for individual practitioners.

Definitions

The definitions set out in the PII arrangements registration standard also apply to this fact sheet. In addition, throughout this document:

- 'we' and 'us' refers to the National Boards and the Australian Health Practitioner Regulation Agency (AHPRA)
- 'your National Board' refers to the National Board for your profession
- 'registered health practitioner' refers to a health practitioner registered in Australia under the National Law
- 'you' or 'your' refers to a registered health practitioner or, where we say otherwise, an applicant for registration.

Meeting the requirement to hold PII arrangements

As a registered health practitioner you are personally responsible for meeting your National Board's registration standards. Part of your obligations includes having appropriate PII arrangements in place when you practise your profession.

You need to take steps to make sure that you have PII arrangements in place which provide adequate and appropriate cover for all aspects of your practice. The arrangements must meet the requirements of your National Board's PII arrangements registration standard and may be provided:

- through your private or public sector employer
- as part of membership of a professional body, trade union or defence organisation
- through a contract of insurance obtained by you directly from an insurer or through an insurance broker, or
- through a combination of the above.

If you are employed, and you only work for an employer, your employer is likely to have arrangements that will provide appropriate cover for your practice and the risks involved in your work. An employer's PII arrangements will only provide cover for activities you carry out as part of your duties during your employment.

The arrangements may vary between different employers, so if you are not sure about what is covered by your employer's PII arrangements, you should always check with your employer.

If you are self-employed, you will need to make sure that you have made your own PII arrangements. Some professional bodies, trade unions and defence organisations offer professional indemnity cover as part of their membership or for an extra fee. Alternatively, you can also arrange your own cover directly through an insurer or through an insurance broker.

If you carry out a combination of employed and self-employed roles, you will need to make sure that you have PII arrangements in place for your self-employed work, as this will not be covered by any PII arrangements put in place by your employer. You should always make sure you have PII arrangements in place which provide appropriate cover for all parts of your practice.

If you are practising as a volunteer or in an unpaid position, you are still required to have appropriate PII arrangements in place. Some voluntary organisations will have PII arrangements which cover their volunteers' activities. If you hold your own PII arrangements, you should check to see if these cover any practice you do as voluntary work.

If you hold non-practising registration you are not required to have PII arrangements in place, as you are not practising. However, as required by your National Board's PII arrangements registration standard, when you decide to cease practice you must take out appropriate run-off cover to make sure you have cover for all matters arising from your previous practice. You should seek advice from your insurer on the arrangements that are necessary while you are taking a break from practice.

If you are registered but are not practising for part of the registration period (for example, if you take a six-month leave of absence), you do not need to have PII arrangements for that period. However, as above, when you decide to cease practice you must take out appropriate run-off cover for matters that would otherwise be uncovered arising from your previous practice as a registered health practitioner.

Amount of cover

Your National Board's PII arrangements registration standard sets out the specific requirements for your PII arrangements.

Regardless of whether the registration standard specifies a minimum level of cover, you must make sure that your PII arrangements provide an appropriate amount of cover. This means that your PII arrangements provide cover appropriate to the nature, context and risks of your professional practice. Practising without appropriate PII arrangements in place is behaviour for which health, conduct or performance action may be taken under the National Law.

The amount of cover needs to be enough to meet any liability (that is, legal responsibility) to pay compensation if a successful claim is made against you. The appropriate amount of cover for you may depend on a combination of factors, including, for example:

- the practice area or areas you work in
- the service users you work with, and
- the risks involved with your practice.

What might be appropriate cover for one registered health practitioner may be not be appropriate for another. You need to make sure that you consider the risks which may arise from your own practice and make sure that your PII arrangements provide adequate cover appropriate to those risks.

We consider that you are in the best position, seeking advice from your insurer or insurance broker, defence organisation, professional body, trade union, and/or employer, to make reasonable, informed decisions about the level of cover appropriate to you and your practice. You need to be able to justify your decisions.

Most National Boards PII arrangements registration standards do not specify a minimum amount of cover. However, if your National Board's PII arrangements registration standard specifies that you must have a minimum amount of cover, you must have *at least* that amount of cover.

What does 'run-off cover' mean?

Run-off cover is a type of cover that practitioners may need when they stop practising, depending on the type of PII arrangements they have held while practising. It protects a health practitioner who has ceased practice against claims that arise out of or are a consequence of activities that were undertaken when the practitioner was conducting that practice.

If you have held a PII arrangements policy that is a 'claims made' policy, this only covers you for claims made during the period of cover, and you would need to have run-off cover to deal with any claims made after you stop practising and your claims made cover has ended.

If you have held a PII arrangements policy that covered you for any incidents which occurred during the period of cover, known as 'occurrence based' cover (either through an individual policy or other arrangements) you will not need run-off cover to deal with any claims arising from when you finish practice.

What does the requirement for automatic reinstatement in the PII arrangements registration standard mean?

'Automatic reinstatement' is a provision in insurance policies which allows for the amount insured (the limit of indemnity or liability) to be reinstated (restored) for new, unrelated claims, after one or more claims has been paid to the limit of the amount insured.

Most National Boards have included a requirement for automatic reinstatement in their revised PII arrangements registration standard to ensure that a health practitioner's cover would not be exhausted if there was a single large claim

This outcome may also be achieved by a practitioner's PII policy providing for aggregate coverage of a certain amount, with a lower limit (usually half of the total insured) set on the amount that will be covered in relation to any one claim.

Duty of disclosure

As with any insurance policy, you have a duty to disclose any information to your PII arrangements provider (or the third party responsible for your PII arrangements) that you know, or could reasonably be expected to know, might affect their decision to provide or to continue providing your PII arrangements.

For registered health practitioners, the duty of disclosure exists whether the insurance is provided under a contract of insurance or any other professional indemnity insurance arrangement.

Accountability

Checking that an arrangement is in place

As a registered health practitioner, you are responsible for continuing to meet your National Board's standards and other obligations of your registration. It is your responsibility to ensure that the PII arrangements you organise, or are organised on your behalf by a third party, are appropriate for your practice and meet your National Board's PII arrangements registration standard.

When you apply for registration you are asked to declare that you will not practise the profession unless you have PII arrangements in place. Each year when you renew your registration, you will be asked to make a declaration that you practised the profession in accordance with the requirements of your National Board's PII arrangements registration standard and that you will not practise the profession unless you have PII arrangements in place that meet this standard.

Because having PII arrangements in place is a requirement of your registration, if you do not complete the declaration, your National Board can refuse your application for registration or renewal or impose a condition on your registration. For example, the National Board may impose a condition that you not practise your profession until you have appropriate PII arrangements in place.

We will not ask you to routinely send us certificates or other evidence of your PII arrangements. However, we may ask you for evidence for routine audit purposes or if, for example, there is concern that you may not have PII arrangements in place or that the arrangements may not provide appropriate cover. The type of evidence you need to demonstrate compliance is set out in your National Board's PII arrangements registration standard.

If your practice changes

We recognise that your practice may change. For example, this might be because you decide to focus your practice on a particular area, expand your practice into new areas, start working with a new client group, or move into a role in management, education or research.

This might mean that the level of cover you need changes or that you need to make other arrangements. You must make sure that you continue to have PII arrangements in place which provide appropriate cover for your practice.

If your PII arrangements change

If at any point when you are registered with us you no longer have appropriate PII arrangements in place for your professional practice, you need to inform your National Board in writing within 7 days. Failing to notify the National Board within 7 days that appropriate PII arrangements are no longer in place for your professional practice is behaviour for which health, conduct or performance action may be taken under the National Law.

However, you do not need to tell us about routine changes, such as a change of insurance provider or not having an arrangement in place because you are no longer practising.

Review

This fact sheet will be reviewed from time to time as required. This will generally be at least every five years.

Last reviewed: 30 December 2015