Professional Indemnity Insurance Policy

Combined Product Disclosure Statement, Policy Wording V.14, and Financial Services Guide

V.14

SECTION 1 —

HOW TO USE THIS BOOKLET

Thank you for choosing MDA National

Supporting and protecting doctors and promoting good medical practice since 1925, our priority is to assist you in the moments that matter.

Being a part of MDA National means having access to industry-leading doctors, lawyers and medico-legal experts who are just a click or phone-call away.

Why you need cover

All medical practitioners registered and practicing in Australia require medical indemnity insurance.

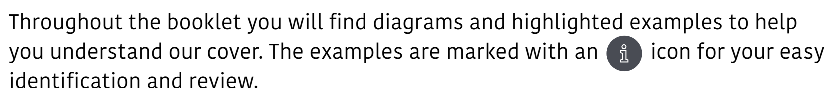
The cover offered by MDA National Insurance caters to a wide range of practice scenarios, including both public and private practice, and at all stages of a doctor's career – from being a medical student, through internship and further training, and into practice in your chosen specialty.

The cover we provide is continually reviewed and updated to ensure it remains relevant to your needs in an ever-evolving clinical and regulatory climate.

This booklet

This booklet will help you to better understand MDA National, our Professional Indemnity Insurance Policy, and the support and protection we can provide you and your practice.

How to use this booklet



Throughout the booklet you will find diagrams and highlighted examples to help you understand our cover. The examples are marked with an i icon for your easy identification and review.

The table of covers in the Product Disclosure Statement (PDS) sets out a simplified, high-level summary of the key covers and benefits provided to you through the Policy (please be sure to refer to the Policy Wording for a full and detailed explanation).

In addition, throughout the Policy Wording we highlight those words and phrases which you can find explained in greater detail in the 'Words with special meanings' at the beginning of the Policy Wording.

TABLE OF CONTENTS —

The rest of this booklet is divided into the following sections:

SECTION 2 — 06

The Product Disclosure Statement (PDS) provides information about your Policy including:

- A table summary of what we cover — 09
- An explanation of claims made policies and retroactive cover — 13
- How to make a claim, and what to do when something goes wrong — 24

SECTION 3 — 26

The Policy Wording sets out in detail the terms of the Policy including:

- Words with special meanings — 27
- What we cover — 31
- Exclusions – what we do not cover — 48
- Conditions – what you must do — 53
- General terms – what we can do — 56

SECTION 4 — 60

The Financial Services Guide contains information about MDA National and the financial services we provide including:

- What products and services we offer — 61
- How we safeguard your personal information — 63
- What to do if you want to make a complaint — 64

SECTION 5 — 66

The NSW Healthcare Liability Act 2001 is an extract of the Insurance Regulation Order issued under the *Healthcare Liability Act (2001)* for the attention of NSW medical practitioners.

SECTION 2 ——

PRODUCT DISCLOSURE STATEMENT

Important Information about your Policy

This Product Disclosure Statement (PDS) is designed to help you make an informed decision about acquiring the Professional Indemnity Insurance Policy (Policy) underwritten by MDA National Insurance Pty Ltd (MDA National Insurance) ABN 56 058 271 417, AFS Licence Number 238073.

You can contact us by:

Email: peaceofmind@mdanational.com.au
Phone: 1800 211 255
In writing: PO Box 445 WEST PERTH WA 6872

It is important that you carefully read all the information in this PDS, as well as the terms and conditions, exclusions and defined terms of the standard policy wording in Section 3. If a Policy is issued to you, you should also read the Certificate of Insurance and any endorsements issued in conjunction with the Policy wording.

Any financial product advice in this document is of a general nature only and has been prepared without taking into account your objectives, financial situation or needs.

Information in this PDS may need to be updated from time to time. You can obtain a copy of any updated information by contacting us. If there is a material change to anything that generally affects the Policy, we may provide all policyholders with a new or supplementary PDS.

Updates will also be available on our website **mdanational.com.au**.

This PDS is issued on 10 May 2023 and applies to Policies commencing on or after 1 July 2023.

Applying for and renewing your Professional Indemnity Insurance

Policy application and renewal process

You must fully and accurately fill out a proposal to apply for this insurance. In the case of renewal, you must ensure that your declaration is accurate.

With respect to your application for insurance, any renewal and any variation, you must ensure that you fully answer our questions, that your answers are accurate and that you provide all documents and information that we request. Before we make an offer of cover we will conduct a risk assessment. That assessment may include, at a time convenient to you, a visit from and an interview with our risk advisors.

The extent of cover we may offer you and the cost of the Policy will depend on the answers, information and documents you provide to us as well as other information we obtain.

Failure to provide full and accurate answers, information and documents may allow us to cancel your Policy or reduce the amount we will pay you if you make a claim under the Policy, or both. If your failure is fraudulent, we may refuse to pay a claim under the Policy and treat the contract as if it is never existed.

You can apply for a Policy at our website **mdanational.com.au**. You can also request a proposal form by calling 1800 011 255 or visiting the **Download centre** of our website.

Your duty of disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, which may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim under the Policy, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim under the Policy and treat the contract as if it is never existed.

What makes up the insurance contract?

The insurance contract is made up of:

- the Certificate of Insurance issued to you;
- the Policy Wording included in this Professional Indemnity Policy booklet;
- any Supplementary Policy Wording that is current during the period of insurance; and
- any endorsement issued to you.

You must read all of these documents carefully. They should be kept in a secure place.

What we cover

The Professional Indemnity Insurance Policy is a contract of insurance. The Policy is available to both medical practitioners and medical students, although some covers apply only to medical practitioners. The following is a very brief summary of your cover. It is only a summary and does not form part of the contract of insurance. It does not refer to exclusions that limit your cover or conditions that you must comply with.

All of the features, terms and conditions of this insurance are set out in the Policy wording (Section 3 of this document).

The total amount we will pay for the aggregate of all claims, legal costs and other matters paid under your Policy during the period of insurance will not exceed the $20,000,000 Maximum Limit of Indemnity (which is inclusive of any deductible) set out in the Certificate of Insurance; and provided that the Maximum Limit of Indemnity is not exceeded, the sub-limits, set out in the Certificate of Insurance, apply during the period of insurance.

The following table is a brief summary of covers and limits.
Please refer to clause 24 on pages 45 and 46 of the Policy Wording for details.

PROFESSIONAL NEGLIGENCE AND CIVIL LIABILITY

We will...	Medical Practitioner	Medical Student	*Aggregate Limit of Cover for all Claims*
Defend you in civil legal proceedings brought by patients	✓	✓	$20 million
Defend you in civil proceedings alleging breach of privacy	✓	✓	
Defend you in civil proceedings arising from telehealth	✓	✓	
Defend you in civil proceedings when you have been acting as a good Samaritan	✓	✓	
Defend you in some civil proceedings whilst practicing overseas for limited time	✓	✓	
Defend you in civil proceedings arising from clinical trials	✓	✗	
Defend you against allegations of defamation	✓	✗	
Defend your practice in civil proceedings	✓	✗	
Pay the legal costs of defending you in professional negligence and some civil liability matters	✓	✓	
Pay civil damages you are ordered to pay in professional negligence and civil liability matters	✓	✓	
Pay costs you are ordered to pay	✓	✓	

LEGAL REPRESENTATION AND COSTS FOR INVESTIGATIONS, INQUIRIES AND OTHER MATTERS

We will...	Medical Practitioner	Medical Student	Aggregate Sub-limits*
Represent you and pay legal costs when you are the subject of an investigation or inquiry (including but not limited to Ahpra investigations, coronial inquiries and, unless you are a Medical student, Medicare audits)	✓	✓	$2 million
Represent you and pay legal costs when self referring regarding a health impairment	✓	✓	
Represent you and pay legal costs in defending allegations of some sexual misconduct and criminal matters	✓	✓	
Represent you and pay legal costs in certain employment, credentialing disputes	✓	✗	$100,000 but for claims by you for unpaid remuneration we will not pay more than the amount reasonably sought by You
Represent you and pay legal costs in certain training disputes	✓	✗	$100,000
Represent you and pay legal costs when you are defamed	✓	✗	$100,000 (inclusive of the deductible of $20,000)
Represent you and pay legal costs in obtaining Apprehended Violence Orders on your behalf	✓	✗	$100,000

*Provided that the Maximum Limit of Indemnity (which is inclusive of any deductible) is not exceeded

PRIVACY ACT – FINES, PENALTIES AND COSTS

We will...	Medical Practitioner	Medical Student	Aggregate Sub-limits*
Defend you against imposed fines and penalties for breach of Privacy Act	✓	✓	$250,000
Pay fines and penalties imposed on you for breach of Privacy Act	✓	✓	
Pay notification costs for breach of Privacy Act	✓	✓	

FURTHER BENEFITS

We will...	Medical Practitioner	Medical Student	Aggregate Sub-limits*
Compensate you when you contract certain communicable diseases	✓	✓	$100,000 for Medical Practitioner $50,000 for Medical Student
Pay you for loss of income in some circumstances	✓	✗	$20,000 (with a maximum of $2,000 per day for up to 10 days)
Cover you for loss of documents	✓	✗	$100,000

*Provided that the Maximum Limit of Indemnity (which is inclusive of any deductible) is not exceeded

Examples of coverage responses

An example –
Civil claim following poor clinical outcome

You receive a Statement of Claim in which a patient is suing you.

Your patient alleges that you failed to identify and/or treat a fracture of their acetabulum, and that your delay in the diagnosis and treatment has resulted in a significantly worse prognosis than it would have otherwise been.

After notifying us we nominate an experienced legal firm to act on your behalf and defend you.

An example -
Ahpra investigation following complaint

You receive a letter from Ahpra stating that a complaint has been made about your physical examination of a patient.

Your patient alleges that your examination of a skin lesion on their breast made them feel uncomfortable and that they did not consent to the breast examination you performed. The Medical Board of Australia has decided to investigate the complaint. As part of the investigation Ahpra requests a written response from you, your patient's medical records and a statement from the patient.

We assist you throughout this investigation by reviewing and providing input and advice regarding your written responses to Ahpra and, where appropriate, appointing a legal firm to assist you with your submissions.

Single claim

Where an act or omission, one or more related acts or omissions or any course of related treatment gives rise to more than one claim against you (whether by one or more claimants) all such claims against you will constitute a single claim against you and the cover (including the limits of indemnity) is limited to cover applicable at the time the first claim was made against you.

Where an act or omission, one or more related acts or omissions, any course of related treatment or any acts or omissions which are substantially in common with each other gives rise to more that one investigation or inquiry, all such investigations and inquiries will constitute a single matter for which you claim under the Policy and the cover (including the limits of indemnity) is limited to cover applicable at the time the first investigation or inquiry arose.

See clause 25 of the Policy Wording for details of the Single Claims provision and its effect.

Claims made policies and retroactive dates

In this section we explain what is meant by a claims made policy, the significance of what is called a “retroactive date” and why these are important to you.

A claims made policy

The Policy is a claims made contract of insurance. This means that it covers civil liability claims (and associated legal costs) made against you and notified to us during the period of insurance and the legal costs of investigations and inquiries that you first become aware of and notify to us during the period of insurance. Similarly, the cover for legal costs for other matters only applies to matters that you first become aware of and tell us about during the period of insurance.

The communicable disease cover applies only if your first diagnosis of having acquired a communicable disease occurs during the period of insurance.

The Policy does not cover matters of which you were aware (or reasonably should have been aware) prior to the commencement of the period of insurance, whether you told us about them on your proposal or not. The Policy does not cover any communicable disease (clause 22) which you knew or ought reasonably to have known you had before we first started providing cover to you for communicable disease under your insurance with us.

Such matters may be:

- claims that have already been made or threatened against you; or
- investigations or inquiries whether commenced or not; or
- a prior diagnosis of your having any communicable disease; or
- circumstances of which you are aware (or reasonably should have been aware) that could give rise to a claim against you, an investigation or inquiry, or a claim by you for cover under the Policy.

If you notify us of a matter after your Policy has expired or is cancelled, you may not be covered for that matter. If you want to remain insured it is important that you continue to renew your insurance with us or obtain alternative insurance. Matters notified prior to the expiry or cancellation of your Policy and accepted by us as a valid claim under the Policy will, subject to the terms of the Policy, continue to be covered, even after expiry or cancellation of your Policy.

Notice under section 40(3) of the *Insurance Contracts Act 1984* (Cth)*:*

Where you give notice in writing to us of any facts that might give rise to a claim against you as soon as reasonably practicable after you become aware of those facts, but before the expiry of the period of insurance, you may have rights under section 40(3) of the *Insurance Contracts Act 1984* (Cth) to be covered in respect of any claim subsequently made against you arising from those facts even though the claim is made against you after the expiry of the period of insurance. These rights arise under the legislation only and are not terms of this contract of insurance.

Retroactive cover

Retroactive cover provides cover for your prior practice in respect of matters that you first become aware of during the period of insurance. The retroactive date of your Policy determines how much of your prior practice is covered under your Policy.

Your Certificate of Insurance will (with limited exceptions) include a retroactive date. The Policy will not cover you for incidents that occurred prior to this date. Due to the nature of healthcare services, it is not unusual for claims against you, investigations or inquiries to arise months or years after the incident giving rise to them occurred. As your Policy is a claims made policy, such matters may be covered, but only if the incident giving rise to them occurred on or after the retroactive date shown on your Certificate of Insurance. In some instances, we may issue a Policy without a retroactive date, in which case the Policy can respond to properly notified matters irrespective of the date of the incident.

When MDA National Insurance offers insurance to a medical practitioner it is obliged to make an offer of insurance which covers the medical practitioner for any claims against you arising from prior incidents that are not otherwise covered by any insurance. Therefore, it is very important that if we issue a Policy with a retroactive date you ensure that your retroactive date provides you with adequate retroactive cover for all areas of your past practice.

Everyone's circumstances are unique, but as a guide, the following may assist you in making a decision on your retroactive cover needs. Please contact our Member Services team on 1800 011 255 if you require further clarification.

You may require retroactive cover from the first date on which:

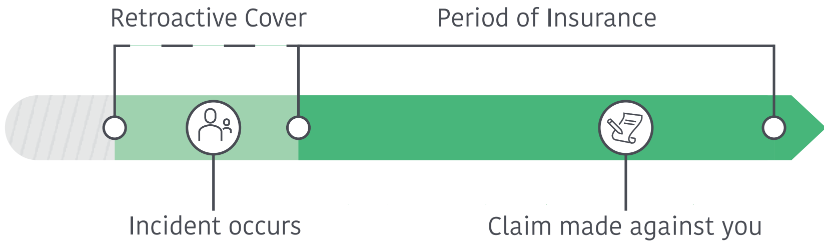
- you practised privately in Australia and did not have medical indemnity cover from any source including a Medical Defence organisation; or
- you practised in the public hospital system or a corporate setting and did not have indemnity from your employer or under a Government indemnity scheme; or
- you held a claims made medical indemnity insurance policy; or
- your last claims incurred medical indemnity cover expired; or
- if you are a recent graduate, you commenced your internship; or
- if you are a student, you commenced your medical degree.

Once your retroactive date has been agreed by us, in most cases you will retain this retroactive date for each subsequent renewal. However, if you do require additional retroactive cover, you can apply for this at any time.

You may find the 3 diagrams on the following page will help your understanding:

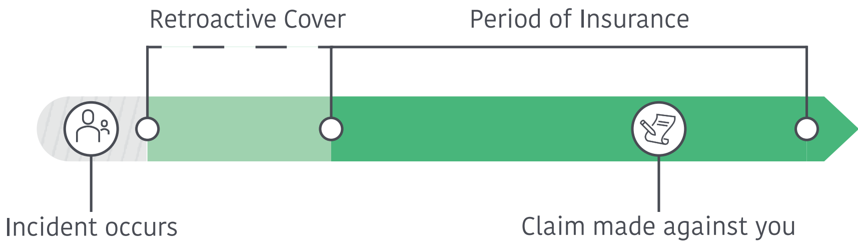
Claim covered

Incident occurred and claim made within Period of Insurance and Retroactive Cover period.



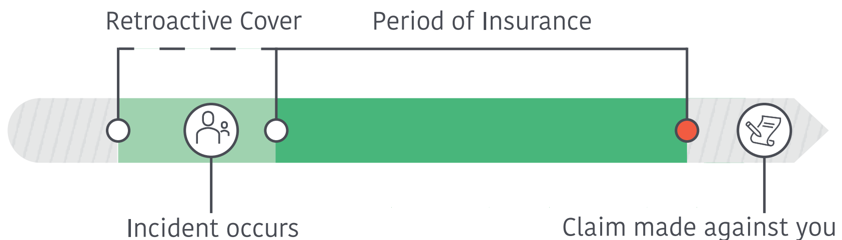
Claim not covered

Incident did not occur in either Period of Insurance or Retroactive Cover period.



Claim not covered

Claim made against you after period of insurance for incident not previously notified to us



You decided not to renew your insurance

Exclusions - what we do not cover

The Policy will not provide insurance cover in certain circumstances. Clauses 26 to 29 of the Policy Wording set out what the Policy does not cover. Please ensure that you read the Policy exclusions carefully in order to understand what is not covered.

Policy conditions – what you must do

There are things that you must do. If you do not do them, we may be able to refuse to pay part or all of any claim you make under the Policy, not provide you with assistance (or withdraw assistance) and/or cancel your Policy. These conditions are set out in clauses 30 to 42 of the Policy.

Examples of what you must do

Premium
You must pay the premium on or by the date it is due (clause 31).

Policy deductible
A deductible of $20,000 applies to the pursuit of defamation allegations (clause 13).

Most claims under the Policies issued by us will not have a deductible additional to that for pursuit of defamation. If an additional deductible is to apply, it will be detailed in your Certificate of Insurance. Although it is a condition of cover under this Policy that you must pay, as directed by us, the applicable deductible for each and every relevant matter for which you seek cover under the Policy (clause 32), in most circumstances you will only be directed to pay the deductible after we have confirmed you will be covered for the claim under your Policy and as legal costs are incurred.

Notification of claims
You must notify us in writing as soon as practicable after you become aware of any claim against you, investigation or inquiry. (clause 33).

Risk management
You must meet and co-operate with us for the purposes of discussing your risk management practices if we request such a meeting (clause 36 (c)).

Gross Annual Billings
Within 30 days of our request, you must provide independent evidence (such as an accountant's report) of your gross annual billings. Assistance in how to calculate your gross annual billings is contained in our Risk Category Guide accessible in the **Download centre** of our website.

If the evidence provided differs from the gross annual billings declared to us we may exercise rights against you including cancellation of the Policy, charging further premium and recovering outstanding premium from you (clause 42). We also have a right to conduct an audit of your gross annual billings and your practice (clause 42).

General terms – What we can do

There are some general terms that apply to all of the insuring clauses. These are set out in clauses 43 to 51 of the Policy.

Examples of what we can do

Legal costs
When a claim against you, investigation, inquiry or other matter includes both allegations that are covered under the Policy and allegations that are not covered under the Policy, we may pay only the legal costs that we regard as attributable to the allegations for which we provide cover under the terms of the Policy (clause 43).

Control of proceedings
We have the right to conduct and control any proceedings that we agree to cover under the Policy. However, we will not admit liability for or settle any claim against you, by you against another or investigation, inquiry or other matter without your prior consent. Nevertheless, if you unreasonably refuse to consent to our settling a claim against you or by you against another, or otherwise resolving an investigation, inquiry or other matter, your entitlement to cover will be affected (clause 44).

Subrogation
We have the right to take over all of your rights of recovery in respect of a claim under the Policy and to pursue actions against third parties in your name even if a claim under the Policy has not actually been paid (clause 46).

If you surrender any right or settle any claim against you, or by you against another for contribution, indemnity or recovery without prior written consent, then we may be entitled to refuse to pay part or all of any claim you make under the Policy, not to provide you with assistance (or withdraw assistance) and/or cancel your Policy (clauses 30 and 39(c) and (d)).

Further Information About Your Policy

How much will the Policy cost?

In order for you to receive a Policy, you must be a Member of MDA National Limited (with limited exceptions). If you are a medical practitioner, you must pay your MDA National Membership subscription. The amount of this subscription is specified separately in the quotation or renewal documentation. If you are a medical student, your Membership and the Policy are provided free of charge.

The total insurance premium is made up of the basic premium, the ROCS Support Payment and Government taxes and charges. The basic premium will vary depending on the risk covered. We use a system of rating factors to calculate this component including:

- your specialty or field of practice;
- your gross annual billings;

- your retroactive date and the nature of practice undertaken in that period; and
- the State(s) in which you practice.

Important Reminder: Without limiting any of your obligations, It is important that your field of practice accurately describes the actual field in which you practice and that you accurately inform us of your Gross Annual Billings. Our Risk Category Guide, accessible on the **Download centre** of our website, will help you do this. If the field of practice does not accurately describe the actual field in which you practice or if you do not accurately inform us of your Gross Annual Billings, we may have remedies including allowing us to cancel your Policy or reduce the amount we will pay you if you make a claim under the Policy, or both. If your failure is fraudulent, we may refuse to pay a claim under the Policy and treat the contract as if it is never existed. You must keep us informed of any changes to the actual field in which you practice and any changes in your Gross Annual Billings

Other factors that could affect the total cost of your Policy are:

- a Premium Support Scheme subsidy;
- an administration charge if paying your premium by instalments;
- your claims history;
- any specific factors that affect your risk; and
- any special discounts.

Premium Support Scheme (PSS)

The PSS has been established by the Australian Government to assist eligible medical practitioners to meet the costs of their medical indemnity insurance. We administer the PSS in relation to our Insureds on behalf of the Government.

You must apply for the PSS subsidy separately for each year that you wish to be assessed for eligibility. The PSS may require that you provide a Statutory Declaration of your private practice income in order to be eligible. You may also apply for an advance payment and, if we receive your PSS application in time and you are eligible, we can collect the PSS payment directly from Medicare Australia and you will only need to pay the balance of the premium. Otherwise, you will be required to pay the full premium amount and we will refund any premium support due to you.

If you receive an advance payment and it is later determined that you are not eligible to receive a PSS payment or you received a higher subsidy than you are entitled to, you will need to repay to us the PSS payment or that portion of the PSS payment that you are not entitled to.

If you would like further information in relation to the PSS, please refer to the PSS Information Booklet available from the **Download centre** of our website **mdanational.com.au** or contact our Member Services team on 1800 011 255.

Paying your insurance premium

You can choose to pay your premium annually, or seek to pay quarterly or monthly, by a range of payment options. If you choose to pay by quarterly or monthly instalments an administration charge is added so your total premium will be more than if you paid the premium in one transaction.

If we don't accept your request to pay by instalments, we can provide you with the contact details of an alternate provider through whom you can arrange instalment payments. This may attract an additional fee payable directly to that provider.

For the total range of available payment options please contact our Member Services team on 1800 011 255.

Unless we advise otherwise, any payment reminder we send you does not change the due date for payment of your premium under the terms of your Policy.

Policy variations

Treatment of public patients in public hospitals

Occasionally, medical practitioners will find that they are not able to access State or employer indemnity for the treatment of public patients in public hospitals. Under such circumstances, you may apply for an extension of cover under your Policy by completing a Treatment of Public Patients form and returning it to us with written confirmation regarding your indemnity status. An additional premium may apply if this cover is issued.

Not practising for three months or more

If you are planning to temporarily cease practice for three consecutive months or more during the period of insurance, you may be eligible for a premium reduction depending on the reason for temporarily ceasing practice. Please contact our Member Services team on 1800 011 255 for more information. While on your break, it is advisable not to let your Policy lapse without first having some other cover in place. In the event a claim is made against you or you become aware of an investigation or inquiry or other matter while you are on your break, you may not be covered if you do not maintain your insurance.

Run-off cover

Run-off cover is a form of cover generally taken out by professionals when they permanently cease practice, as claims can be made against a medical practitioner years after the healthcare services are provided. Run-off indemnity covers claims against you that first come to light and are notified to us in writing after a nominated cessation date, but only in respect of healthcare services provided during the period from your retroactive date to your nominated cessation date. The cessation date is normally the day after your last day of practice for which you require our cover.

With respect to run-off cover you should be aware of changes to the Australian Government's Run-Off Cover Scheme (ROCS), which means that from 1 July 2020

we are obliged to offer run-off cover to medical practitioners who (regardless of age) have permanently ceased private remunerated practice in Australia and who satisfy certain eligibility criteria.

More information on the ROCS is available from the Department of Health and Ageing website.

If you believe you may be eligible for the ROCS or would like to find out more about run-off cover please contact our Member Services team on 1800 011 255 or go to the **Download centre** of our website to access our ROCS Information Booklet. You may not need to purchase or renew your Professional Indemnity Insurance Policy.

Travelling overseas

If you will be overseas for more than six months or the overseas cover does not apply, you can seek an extension of cover under your Policy by completing the Overseas Cover Request form via the Member Online Services section of our website mdanational.com.au or by writing to us.

Cooling off period

If you cancel your Policy within 21 days of it being issued, we will refund the whole of the premium (including any Government taxes and charges) that you have paid (clause 47).

However, your cooling off right does not apply if you make a claim under your Policy prior to your request to cancel it.

Cancellation

You may cancel your Policy (clause 47) at any time by:

- contacting Member Services on 1800 011 255
- emailing peaceofmind@mdanational.com.au, or
- writing to us at PO Box 445 WEST PERTH WA 6872.

If you cancel after the 21-day cooling off period and you have paid the total annual premium and Membership subscription, we will refund the premium and Membership subscription for the unexpired period of insurance on a pro-rata basis, less a cancellation fee equal to 45 days' premium and Membership subscription.

If you are paying by instalments, you will be required to pay us the cancellation fee equal to 45 days' premium and Membership subscription, less any refund that may be due to you.

We will not make any refund where:

- the total annual premium payable is $20 or less;
- you have made a claim or notified a potential claim under the Policy.

For the avoidance of doubt, cancellation, including refunds of your Membership subscription, will be treated similarly.

We may cancel the Policy (clause 48) by giving you 3 business days' written notice if:

- you fail to disclose or misrepresent to us any information that you know or could reasonably be expected to know was relevant to our decision to insure you and on what terms;
- you fail to comply with your duty of utmost good faith to us;
- you fail to comply with any provision of the Policy, including the provision to pay the premium, or a premium instalment or a deductible;
- you fail to comply with any provision of the Policy which requires you to notify us; or
- you make a fraudulent claim under the Policy.

Refunds

A premium refund may be due to you if your Policy is cancelled or amended during the year. Subject to the cancellation clause (clause 47), if a refund is due to you, we will either issue it directly to your nominated bank account or issue a refund cheque to your last known address or if instructed by you, donate the amount to a registered charity identified within our Corporate Social Responsibility program.

Example of premium impact of cancellation#

Where premium had been paid in full	
Total premium	$875.01
Amount paid	-$875.01
Unused pro-rata premium (2 March to 30 June)	-$290.07
Cancellation fee*	+$85.73
Refund to Member	**=$204.34**

Where premium was being paid by quarterly Direct Debit	
Total premium	$895.51
Amount paid to date (three of four instalments paid)	-$671.63
Amount owing	**=$223.88**
Unused pro-rata premium	-$296.87
Cancellation fee*	+$87.73
Amount payable by Member	**=$14.74**

*Cancellation fee is 45 days' equivalent of premium, excluding tax

#Examples of premium impact assuming cancellation as at 1 March, in Period of Insurance (1 July to 30 June)

How to make a claim under the Policy

Early reporting of a matter in respect of which you may be entitled to cover under the Policy is critical and is a condition of the Policy. The sooner we know about the matter, the quicker we are able to help.

You must notify us of such matters by providing full details in writing as soon as practicable, and in any event during the period of insurance. You can do this via our online incident notification form available on our website mdanational.com.au, by email at advice@mdanational.com.au, by fax to 1300 011 235 or by mail to any of our offices. The following circumstances are examples:

- a claim has been made or intimated against you or against your practice entity in connection with your provision of healthcare services;
- you become involved in any investigation or inquiry;
- before you incur legal costs for which you may be entitled to cover under the Policy (for example in relation to certain employment disputes);
- you lose documents or data relating to your provision of healthcare services; or
- you are diagnosed as having acquired HIV, Hepatitis B, Hepatitis C, extremely drug-resistant tuberculosis (XDRTB), multi-drug-resistant tuberculosis (MDRTB) or New Delhi Metalloenzyme enterococci.

If you do not use the online notification form, your written notice to us should include:

- your full name, Member number and preferred contact details;
- the specific nature of the matter for which you seek cover;
- the name and address of any other practitioners involved;
- the date, time and place of the event;
- if applicable, the name, address and date of birth of the patient involved; and
- a detailed account of the healthcare service you performed.

If you do not notify us during the period of insurance, your entitlement to cover under the Policy may be affected. If you are not sure whether to notify, or you require assistance, please contact our Medico Legal Advisory team on 1800 011 255 or email **advice@mdanational.com.au**.

Incidents or circumstances that may give rise to a claim under the Policy

If at any time after the Policy has been issued and during any period of insurance you become aware of any circumstances which could potentially give rise to a claim under the Policy, whether you make a claim or not, you should let us know as soon as possible. Don't, for example, wait until a claim is made against you to notify us.

What to do when something goes wrong

Speak to us first. Patients are always entitled to a full, accurate, sympathetic and prompt account of the facts, but you must not admit liability or do anything that may compromise our ability to defend a claim against you.

Refrain from entering into any correspondence with the patient, hospital or supervisor without first contacting us.

What to do if you want to make a complaint about us

Please refer to pages 64 and 65 in the Financial Service Guide.

Financial Claims Scheme

This Policy may be a 'protected policy' under the Federal Government's Financial Claims Scheme (FCS), which is administered by the Australian Prudential Regulation Authority (APRA). The FCS is intended to protect certain policyholders in the extremely unlikely event of an insurer becoming insolvent. A person entitled to claim under a protected policy may be entitled to payment under the FCS although access to the scheme is subject to eligibility criteria. Information about the FCS can be obtained from FCS at **fcs.gov.au** or by calling the FCS info line on 1300 558 849.

SECTION 3 —

POLICY WORDING

Professional Indemnity Insurance Policy

This Professional Indemnity Insurance Policy is issued by MDA National Insurance Pty Ltd ABN 56 058 271 417, AFS Licence No. 238073.

When issuing **your** Policy **we** have relied on the information **you** have given us in **your proposal**. **You** must tell **us** without delay if any of this information is incorrect or if it changes.

Please read this Policy wording and the **Certificate of Insurance** carefully and keep them in a safe place. When reading this Policy wording, please note the use of the following specially defined words.

Words with Special Meanings

Certificate of Insurance means the Certificate of Insurance to **your** Policy.

Claim against you means:

a) a demand for, or an assertion of a right to, compensation, damages or injunctive relief made against **you**; or

b) an intimation of an intention to seek compensation, damages, or injunctive relief against **you**.

Communicable disease means HIV, Hepatitis B or Hepatitis C viruses, extremely drug-resistant tuberculosis (XDRTB), multi-drug-resistant tuberculosis (MDRTB) and New Delhi Metalloenzyme enterococci.

Criminal conduct means conduct that is or could be in breach of a criminal law, regardless of whether or not a criminal charge has been brought in relation to that conduct.

Deductible means the amount set out in the **Certificate of Insurance** that must be paid to **us** or at **our** direction before **we** will cover **you**.

Documents means any written, printed or reproduced material, or any electronic document or data used in connection with practice providing **healthcare services**, but does not include any currency, negotiable instrument, cheque, stamp, bond or coupon, or any document evidencing title to or constituting a form of security.

Eligible data breach means a data breach involving unauthorised access to, or unauthorised disclosure of personal information that is likely to result in serious harm to any individual to whom the information relates and which must be notified pursuant to the provisions of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation.

Employer indemnified means any circumstance in which **you** are entitled to indemnity from a government, hospital or employer with respect to **your** civil liability for claims against **you** resulting from **your** provision of **healthcare services**.

Field of practice means the field of practice set out in the **Certificate of Insurance**.

Note: Information to help **you** to ensure that **your field of practice** is correct is contained in **our** Risk Category Guide accessible on the **Download centre** of **our** website.

Gross annual billings means the total annual billings generated by **you** from all areas of **your** practice for which **you** are required to have indemnity cover from **us** within the financial year. This is whether the funds are retained by **you** or not, and before any apportionment or deduction of expenses and/or tax.

Note: Information to help **you** to ensure that **your** gross annual billings are accurately calculated is contained in **our** Risk Category Guide accessible on the **Download centre** of **our** website.

Health impairment means a physical or mental disability, condition, deterioration of function or disorder (including substance abuse or dependence) that detrimentally affects **your** capacity to safely provide **healthcare services**.

Healthcare service means:

a) if **you** are a **medical practitioner**, the following services that **you** personally provide:

   i) healthcare treatment, services or advice or a report of those things provided to a patient or in relation to a patient in a professional capacity, including via **telehealth**; or

   ii) supervision, training or direction of a healthcare student or **registered healthcare professional** who is undertaking a recognised healthcare training program; or

   iii) supervision or direction of a person who is not a **medical practitioner** to assist **you** in providing healthcare treatment, services or advice to a patient; or

   iv) supervision, training or direction of a **medical practitioner** whose registration or licence is conditional upon such supervision; or

   v) a healthcare report or opinion not for the purpose of treatment prepared by **you** at the request of a third party who is a lawyer, insurer or statutory body; or

   vi) healthcare advice to a person or organisation in relation to a person's fitness to carry out certain duties or activities; or

   vii) writing an academic paper or an article in a peer reviewed, refereed healthcare journal; or

   viii) as part of a professional but non-clinical role in medical education at a recognised institution, healthcare administration or medical research

   provided that the activity is of a type that a qualified **medical practitioner** would ordinarily provide within **your field of practice**

b) if **you** are a **medical student**, the healthcare treatment, services or advice or a report of those things provided to a patient or in relation to a patient in a professional capacity, provided that the activity is of a type that is appropriate to be conducted by a **medical student** at **your** stage of medical study.

Immediate family means:

a) **your** current or former spouse, de facto or domestic partner;

b) **your** children;

c) the children of **your** current or former spouse, de facto or domestic partner;

d) **your** brothers, **your** sisters or **your** parents.

Inquiry means a hearing, inquiry, disciplinary proceeding, investigative process or conciliation:

a) in the case of medical practitioners and medical students, by or on behalf of a professional body, a Professional Services Review Committee, health services authority, medical tribunal, Royal Commission, Coroner's Court, criminal court, health or medical benefits fund, Information Commissioner, Privacy Commissioner, consumer protection agency or Anti-Discrimination Board (or equivalent)

b) in the case of **medical students**, by or on behalf of a university that **you** attend; and

c) including a notification, warning or intimation of (a) or (b)

but not by or on behalf of Ahpra, or a professional registration board.

Investigation means an investigation or disciplinary proceeding by a professional registration board including a notification, warning or intimation of those proceedings but not by or on behalf of an entity referred to in paragraphs (a) and (b) of the definition of "**inquiry**".

Legal costs means lawyers' fees and disbursements reasonably and necessarily incurred for matters covered under **your** Policy, including for:

a) defending **you** against an allegation or **claim against you**; or

b) attending or assisting in an **investigation** or **inquiry**; or

c) prosecuting any proceedings for indemnity, contribution, recovery or other remedy; or

d) investigating, avoiding, reducing or settling any such matters above;

e) costs for referral under clause 15 (ii)

but does not include:

f) travel expenses or personal expenses incurred by **you**; and

g) any fees payable for lodgement of an appeal under the by-laws of a medical college.

Loss of documents means:

a) the loss of, damage to, or destruction of physical **documents**; or

b) the deletion, corruption or modification of electronic **documents**.

Medical practitioner means:

a) an individual registered, licensed, or provisionally registered or licensed, and providing **healthcare services**; or

b) a final year **medical student** who has made an application for provisional registration in Australia as a **medical practitioner** under a law of the Commonwealth or any State or Territory of Australia that provides for the registration or licensing of **medical practitioners**.

Medical student means an individual who is both enrolled as a student in a faculty of medicine of an Australian university and registered as a medical student under a law of the Commonwealth or any State or Territory of Australia that provides for the registration of medical students.

Non-practising period means any period commencing after the **retroactive date** that is set out in the **Certificate of Insurance** or was declared by **you** to **us** and has been accepted by **us** as a period during which **you** did not practise as a **registered healthcare professional** or engage in providing any **healthcare services** in Australia.

Pandemic disease includes:

a) any disease caused by Highly Pathogenic Avian Influenza in Humans, Severe Acute Respiratory Syndrome coronavirus 2 (SARS-CoV-2); and

b) any disease declared now or in the future to be a quarantinable disease under the *Quarantine Act, 1908* (Cth), or declared now or in the future to be a listed human disease under the *Biosecurity Act, 2015* (Cth), or declared now or in the future by any authorised person or body under any additional or replacement quarantine or biosecurity legislation for the purpose of facilitating quarantine or other biosecurity restrictions in the Commonwealth of Australia in connection with the disease.

Period of insurance means the period of insurance set out in the **Certificate of Insurance**.

Policy means the **Certificate of Insurance**, this policy wording, any supplementary policy wording current during the **period of insurance**, and any endorsements issued to **you** during the **period of insurance**.

Proposal means all documents comprising your application for, or renewal of, **your** professional indemnity insurance with **us**, including any Pre-Renewal Questionnaire.

Registered healthcare professional means a **medical practitioner** or an individual who practises a healthcare related vocation and who is registered under a law of the Commonwealth or any State or Territory of Australia to practise that vocation.

Retroactive date means the date specified as "retroactive date" in the Policy (noting that if "Unlimited" is specified, no **retroactive date** applies).

Telehealth means healthcare services within paragraph (a)(i) of the definition of **healthcare service** to or in relation to a patient via telecommunications and digital communication technologies.

Note: There are additional limits including geographical and jurisdictional limits specific to **telehealth**.

We, **our** and **us** mean MDA National Insurance Pty Ltd ABN 56 058 271 417, AFS Licence No. 238073, being the insurer named in the **Certificate of Insurance**.

You and **your** mean:

a) the person named as the insured in the **Certificate of Insurance**; and
b) the executor or administrator of that person's estate.

What we cover

Liability cover

Civil Liability

1. **We** will cover **you** for civil liability for a **claim against you** arising directly out of **your** provision of **healthcare services**, but only when:
   a) the **claim against you** is first made during the **period of insurance**; and
   b) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and
   c) the **claim against you** arises from an act or omission occurring on or after the **retroactive date** and not within any **non-practising** period.

   Despite the exclusion in clause 26.4, when **we** have separately agreed in writing to do so, **we** will cover **you** under this clause for civil liability for a **claim against you** arising out of **your** provision of **healthcare services** to a public patient in a public hospital. See page 41.

Consumer Protection Legislation

2. **We** will cover **you** for civil liability for a **claim against you** that **you** breached a provision of the *Competition and Consumer Act 2010* (Cth) or any State or Territory consumer protection legislation arising directly out of **your** provision of **healthcare services**, but only when:
   a) **the claim against you** is first made against **you** during the **period of insurance**; and
   b) **you** tell **us** in writing during the **period of insurance** about the claim that **you** breached the legislation; and
   c) the claim that **you** breached the legislation arises from an act or omission occurring on or after the **retroactive date** and not within any non-practising period.

Breach of Privacy

3. **We** will cover **you** for civil liability for a **claim against you** arising out of **your** unintended breach of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation in connection with **your** provision of **healthcare services**, but only when:
   a) the **claim against you** is first made during the **period of insurance**; and
   b) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and
   c) **the claim against you** arises from an act or omission occurring on or after the **retroactive date** and not within any **non-practising** period.

We will not cover **you** with respect to any breach which occurs or continues after **you** knew, or reasonably ought to have known that **you** would contravene the *Privacy Act 1988* (Cth) or equivalent legislation.

Further covers for breach of privacy (statutory fines and penalties and notification costs) are provided in clauses 11 and 14.

Liability for reports about others

4. **We** will cover **you** for civil liability for a **claim against you** (including a claim for defamation) arising directly out of **you**, in good faith and in the public interest, reporting an incident or a **registered healthcare professional** to a hospital, area health authority or professional body or participating in the examination of the incident or **registered healthcare professional**, but only when:
   a) the **claim against you** is first made during the **period of insurance**; and
   b) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and
   b) the **claim against you** arises from a report made by **you** on or after the **retroactive date**.

Good Samaritan acts

5. **We** will cover **you** for civil liability for a **claim against you** arising directly out of **your** provision of emergency medical assistance anywhere in the world where:
   a) **you** are in attendance as a bystander; and
   b) there is no expectation of payment or other reward;
   but only when:
      i) the **claim against you** is first made during the **period of insurance**; and
      ii) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and
      iii) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and the **claim against you** arises from an act or omission occurring on or after the **retroactive date**.

   This clause applies only to acts necessary to stabilise the patient or to prepare the patient for transfer.

Overseas cover

6. If **you** are:
   a) a **medical practitioner** then, in any **period of insurance**, for the first six months **you** are overseas (whether or not continuous and whether or not **you** were practising for that entire time) **you** are covered with respect to **your** provision of healthcare services outside the Commonwealth of Australia but only if:
      i) **you** are accompanying, as a team doctor, an Australian sporting team or Australian cultural group (including in the United States of America or its territories), but **you** will only be covered with respect to **claims against you**

by members of that team or group who are Australian residents; or

ii) **your healthcare services** are provided (other than in the United States of America or its territories) as a volunteer with a charitable organisation; or

iii) **your healthcare services** are provided (other than in the United States of America or its territories) as disaster relief work.

Where **you** will be overseas for more than six months in any **period of insurance**, **you** can apply for an extension of cover under **your** Policy by completing the Overseas Cover Request form via the Member Online Services section of **our** website mdanational.com.au or by writing to **us**.

b) a **medical student**, **you** are covered with respect to **your** provision of **healthcare services** outside the Commonwealth of Australia (other than in the United States of America or its territories), but only if **you** are on an overseas elective as part of **your** university course.

See clause 26.22 for jurisdictional exclusions.

Further overseas cover is provided under clause 7 for **telehealth**, however there is no cover under this clause for **telehealth**.

Telehealth (medical practitioners only)

7. The following further provisions apply to **telehealth**.

a) **You** are covered for **telehealth** when:

i) **you** and the patient are in Australia at the time the **telehealth** is provided; or

ii) **you** are overseas (other than the United States of America or its territories) and the patient is in Australia at the time the **telehealth** is provided, but only:

(A) for **telehealth** within 3 months from the date on which **you** last practised in Australia; and

(B) when **you** and the patient have a pre-existing clinical relationship in Australia; or

iii) **you** are in Australia and the patient is overseas at the time the **telehealth** is provided, but only:

(A) for **telehealth** within 3 months from the date on which the patient left Australia; and

(B) when **you** and the patient have a pre-existing clinical relationship in Australia.

b) Where the **Certificate of Insurance** shows **your field of practice** as either Radiologist or Pathologist **you** do not need to comply with the requirements of paragraphs 7 (a) (ii) or (iii) provided:

i) the **telehealth** is for radiology or pathology services;

ii) **you** are not in the United States of America or its territories at the time the **telehealth** is provided; and

iii) the **Certificate of Insurance** is endorsed to show that as a radiologist or pathologist **you** have cover for **telehealth**.

Where the **Certificate of Insurance** shows **your field of practice** as either Radiologist or Pathologist and **you** intend to provide radiology or pathology **telehealth** services while either **you** or the patient are overseas, **you** can apply for an extension of cover under **your** Policy by writing to **us**.

c) If **you** are **employer indemnified**; and

  i) **you** are overseas (other than the United States of America or its territories); and

  ii) the patient is in Australia at the time the **telehealth** is provided; and

  iii) the **Certificate of Insurance** shows **your field of practice** as **Employer Indemnified** and no private billings

you are covered for **telehealth** other than for **claims against you**.

d) If the **telehealth** (including provision of prescriptions or medical certificates, or referrals to another practitioner) is based on the transmission of images, patient data, online questionnaires or text based chat and does not include a video or telephone consultation with the patient, there is no cover under this clause unless:

  i) there has been a previous face to face consultation by **you** with the patient; or

  ii) the **Certificate of Insurance** shows **your field of practice** as either Radiologist or Pathologist and the **telehealth** is for radiology or pathology services; or

  iii) the service is provided to a patient who is in a hospital or emergency department and **you** are practising in accordance with all the accreditation requirements of the hospital or emergency department; or

  iv) a face to face consultation has been performed by another **medical practitioner** and, at the time the **telehealth** is provided, **you** have an agreement with that **medical practitioner** (or the medical practice where that face to face consultation took place) for access to the patients medical records and **you** have access to those medical records; or

  v) **you** provide advice or an opinion in response to a request from a **medical practitioner** or healthcare professional with respect to a patient of that **medical practitioner** or healthcare professional.

e) Where the **Certificate of Insurance** shows **your field of practice** as Post Graduate, Doctor in Specialist Training, or GP-NAT, **you** are only covered for **telehealth** if **you** are:

  i) an Advanced Trainee (with at least 2 years of specialty training), or

  ii) a GP Registrar, Psychiatry Registrar or Radiology Registrar at any stage of training, and

the **telehealth** was conducted strictly within the terms of **your** training program.

See clause 26.22 for jurisdictional exclusions.

Note: There are a number of standards relevant to when and how telehealth services can and should be provided. Please refer to Ahpra, the Medical Board's Code of Conduct, Medicare and **your** College. A summary of common telehealth scenarios is contained in **our** Risk Category Guide accessible on the **Download centre** of our website.

Note: If **you** undertake any **telehealth** services other than what is covered under this Policy, please contact our Member Services team on 1800 011 255 to ascertain whether cover can be extended for those services.

Clinical trials cover (medical practitioners only)

8. If **you** are a **medical practitioner**, **we** will cover **you** for civil liability for a **claim against you** arising directly out of **your** provision of **healthcare services** as part of **your** involvement in a clinical trial or research project that both:

   i) has approval from an ethics committee in accordance with the National Health and Medical Research Council guidelines; and

   ii) has been conducted in accordance with any conditions or approval made by the relevant ethics committee;

   but only when:

   a) the **claim against you** is first made during the **period of insurance**; and

   b) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and

   c) the **claim against you** arises from an act or omission occurring on or after the **retroactive date** and not within any **non-practising** period.

Defamation (medical practitioners only)

9. If **you** are a **medical practitioner**, **we** will cover **you** for civil liability for a **claim against you** arising from alleged or actual defamation by **you** in the course of **your** provision of **healthcare services** but only when:

   a) the **claim against you** is first made during the **period of insurance**; and

   b) **you** tell **us** in writing during the **period of insurance** about the **claim against you**; and

   c) the alleged or actual defamation occurred on or after the later of 1 July 2017 or the **retroactive date** and not within any **non-practising** period; and

   d) **you** did not engage in the alleged or actual defamation with dishonest or malicious intent, or knowingly or deliberately in contravention of any law, rule, regulation or order of a court or tribunal, or with reckless disregard for the consequences; and

   e) the **claim against you** is not a claim for which **you** are entitled to cover under clause 4 (Liability for reports about others).

   We will not cover **you** when the matter for which **you** claim cover under the Policy arises out of:

   a) alleged or actual defamation that occurred outside Australia; or

b) proceedings, judgment or order by a court or other body:
   i) outside of Australia; or
   ii) which apply the laws of a country other than Australia.

Further cover for costs of pursuing defamation claims is provided in clause 13.

Your practice entity (medical practitioners only)

10. If **you** are a **medical practitioner**, **we** will cover, under **your** Policy, a practice entity controlled by **you** for civil liability for a claim:
    i) made against that practice entity arising directly from **healthcare services** provided by **you** personally; and
    ii) for which **you** could claim cover under **your** Policy if it were made against **you**; but only when:
        a) the claim is first made against the practice entity during the **period of insurance**; and
        b) **you** tell **us** in writing during the **period of insurance** about the claim against the practice entity; and
        c) the claim against the practice entity arises from an act or omission occurring on or after the **retroactive date** and not within any non- practising period; and
        d) the practice entity and **you** comply with the terms and conditions of **your** Policy (in the case of the practice entity, as though it were "**you**" under the Policy).

    We will also cover the practice for **legal costs** incurred by **us** on its behalf to defend against the claim against the practice entity.

    If the practice entity is not 100% owned by **you**, the total amount **we** will pay under this clause shall be proportional to **your** percentage ownership of the practice entity.

Statutory Fines and Penalties

Breach of Privacy

11. **We** will cover **you**, to the extent permitted by law, for a civil fine or penalty imposed on **you** arising out of **your** unintended breach of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation but only when:
    a) the breach arises out of **your** provision of **healthcare services**; and
    b) **you** first become aware of the possible or alleged breach during the **period of insurance**; and
    c) **you** tell **us** in writing during the **period of insurance** about the possible or alleged breach; and
    d) the breach occurred on or after 1 July 2018 or the **retroactive date**, whichever is the later.

    We will not cover **you** with respect to any breach which occurs or continues after

you knew, or reasonably ought to have known that you would contravene the *Privacy Act 1988* (Cth) or equivalent legislation.

We will not cover you for fines or penalties imposed outside of Australia and its Territories.

Further covers for breach of privacy (liability for unintended breach of privacy and notification costs) are provided in clauses 3 and 14.

Costs Cover

Defending you against civil liability claims, fines and penalties

12. Subject to clause 44, **we** will cover **you** for **legal costs** that **we** incur on **your** behalf for defending **you** against:
    a) civil liability **claims against you** that are covered under any of clauses 1 to 9 of **your** Policy; and
    b) allegations against **you**, or breaches by **you** that are covered under clause 11 of **your** Policy.

Pursuing Defamation (medical practitioners only)

13. If **you** are a **medical practitioner**, **we** will cover **you** for **legal costs** incurred by **us** on **your** behalf in pursuing a defamation allegation against a person who is not a healthcare professional or a **medical student** that arises from an act of defamation **against you** as a **medical practitioner**, or directly in relation to the **healthcare services** that **you** provide, but only when:
    a) **you** first become aware of the alleged defamation during the **period of insurance**; and
    b) **you** tell **us** in writing during the **period of insurance** about the alleged defamation; and
    c) the alleged defamation occurred on or after the later of 1 July 2017 or the **retroactive date** and not within any **non-practising** period.

    A **deductible** of $20,000 applies to each separate pursuit of one or more defamation allegations under this clause 13.

    We will not pay or incur, or continue to pay or incur, **legal costs** of **you** pursuing any defamation allegation if **we**, in **our** absolute discretion, consider that **your** allegation does not have reasonable prospects of success, or for any other reason, should not be pursued. These reasons can include, but are not limited to:

    i) **legal costs**; and

    ii) that, in **our** opinion, even if successful, the outcome is unlikely to provide a substantial benefit to **you**.

    We may, but are not obliged to, seek legal advice as to the merits, prospects of success and likely outcome of **your** allegation.

If as a result of the pursuit of a defamation action (by **you** or by **us** on **your** behalf), **you** become entitled to payment by another party for **legal costs**, **you** must direct payment to **us** of an amount equal to any amount incurred by **us** (but not including any deductible paid to **us** by **you**) in pursuit of the defamation action. If **your** entitlement to **legal costs** is less than the amount incurred by **us** (but not including any **deductible** paid to **us** by **you**), **you** must direct payment to **us** of the full amount **you** become entitled to.

We will not cover **you** for the costs of any party against whom **you** pursue an allegation of defamation.

We will not cover **you** or make any payment when the matter for which **you** claim under the Policy:

a) arises from defamation that occurred outside Australia; or

b) is subject to the law of a country other than Australia; or

c) based on or derived from a judgment or order of a court of a country other than Australia.

Further cover for civil liability for defending unintended defamation is provided in clause 9.

Breach of Privacy

14. **We** will cover **you** for the reasonable costs of notifying anyone legally required to be notified of an actual, suspected or alleged or possible **eligible data breach** under the of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation but only when:

    (a) the breach arises out of **your** provision of **healthcare services**; and

    (b) **you** first become aware of the actual, suspected, alleged or possible data breach during the **period of insurance**; and

    (c) **you** tell **us** in writing during the **period of insurance** about the actual, suspected, alleged or possible **eligible data breach**; and

    (d) the **eligible data breach** occurred on or after 1 July 2018 or the **retroactive date**, whichever is the later; and

    (e) **we** have agreed to the costs of notification before they are incurred.

    We will not cover **you** with respect to any breach which occurs or continues after **you** knew, or reasonably ought to have known that **you** would contravene the *Privacy Act 1988* (Cth) or equivalent legislation.

    Also see exclusion in clause 26.26.

    Further covers for breach of privacy (liability for unintended breach of privacy and statutory fines and penalties) are provided in clauses 3 and 11.

Investigations, inquiries and self-referral regarding a health impairment

15. **We** will cover **you** for:

    i) **legal costs** that **we** incur on **your** behalf in assisting **you** in an **inquiry** arising from **your** provision of **healthcare services**, or an **investigation** and costs that **you** are ordered to pay as a result of a finding made against **you** in that **inquiry or investigation**; but only when:

       a) **you** first become aware of the **inquiry** or **investigation** during the **period of insurance**; and

       b) **you** tell **us** in writing during the **period of insurance** about the **inquiry or investigation**; and

       c) the **inquiry** or **investigation** arises out of an act or omission occurring on or after the **retroactive date** and not within any **non-practising** period.

    ii) **legal costs** that **we** incur on **your** behalf for **you** referring yourself, during the **period of insurance**, to a relevant authority or **your** employer with respect to a **health impairment**. We **will not** cover **you** for those costs under this paragraph when the referral takes place after **you** become aware of an **investigation** or **inquiry** in any way related to that **health impairment**.

    Where **you** are not covered for **legal costs**, because of exclusions 26.11, 26.12, 26.13, 26.14 or 26.17 and **you** have a **health impairment**, **we** will cover **you** for that part of **legal costs** restricted to those aspects of **inquiries** or **investigations** into **your health impairment**.

    We may require that **you** provide **us**, at **your** cost, with written medical evidence, from another **medical practitioner**, supporting the existence of a **health impairment**.

Defence against allegations of sexual misconduct and criminal conduct towards patients

16. **We** will cover **you** for reasonable **legal costs** incurred by **you** with **our** consent, or incurred by **us** on **your** behalf, for the successful defence of any **claim against you**, criminal proceeding, **investigation** or **inquiry**, arising out of alleged sexual misconduct or **criminal conduct** by **you** against a patient arising directly out of **your** provision of **healthcare services** to the patient, if and when:

    i) in the case of a civil liability **claim against you**, it has been permanently discontinued, or there is a final judgment in **your** favour; or

    ii) in the case of a criminal proceeding, it has been permanently discontinued, or **you** have been found not guilty, or the charges against **you** have been dropped; or

    iii) in the case of an **investigation** or **inquiry**, it has been permanently discontinued, or the outcome is that no finding of professional misconduct has been made against **you**:

    but only if:

    a) **you** first become aware of the **claim against you**, criminal proceeding, **investigation** or **inquiry** during the **period of insurance**; and

b) **you** tell **us** in writing during the **period of insurance** about the **claim against you**, criminal proceeding, **investigation** or **inquiry**; and

c) the **claim against you**, **investigation** or **inquiry** arises from an act or omission occurring on or after the **retroactive date** and not within any **non-practising** period; and

d) all appeal rights of any party in relation to the allegations made against **you** have been exhausted.

We may at **our** absolute discretion agree to advance the **legal costs** under this clause to **you** as they are incurred and prior to the finalisation of any **claim against you**, criminal proceeding, **investigation** or **inquiry**. **We** may in **our** absolute discretion cease to advance **legal costs** to **you** at any time and take steps to recover from **you** any **legal costs** already paid under this clause.

If **we** do advance **legal costs** to **you**, and **we** subsequently determine that **we** have no liability to pay those **legal costs** under this clause, then **you** must repay those **legal costs** to **us**.

If **we** do not advance **legal costs** and **you** are eligible for cover under this clause, **you** must provide evidence of the **legal costs** incurred by **you**. **We** will cover **you** only for the reasonable costs incurred by **you** in conducting **your** defence.

We will not cover **you** for the costs of any party who brings a **claim against you** or commences criminal proceedings, an **investigation** or **inquiry**.

Apprehended Violence Orders (medical practitioners only)

17. If **you** are a **medical practitioner**, **we** will cover **you** for **legal costs we** incur on **your** behalf in seeking an Apprehended Violence Order or equivalent relief where there is a threat to the personal safety of **you** or a member of **your immediate family**, but only when:

a) **you** first become aware of the threat during the **period of insurance**; and

b) **you** tell **us** in writing during the **period of insurance** about the threat; and

c) the threat is related to **your** provision (or non-provision) of **healthcare services** occurring on or after the **retroactive date**.

We will not cover **you** for the costs of any party against whom **you** seek to obtain an Apprehended Violence Order or equivalent relief.

Employment and credentialing disputes (medical practitioners only)

18. If **you** are a **medical practitioner**, **we** will cover **you** for **legal costs we** incur on **your** behalf for:

i) defending against an allegation or **claim against you** by a person formerly, currently or proposed to be employed or contracted as a staff member by **you** that relates to or arises from the contract or proposed contract under which the employee or contracted staff member was, is or is proposed to be engaged to assist **you** in the provision of **healthcare services**; or

ii) defending against an allegation or **claim against you** by **your** former, current or proposed employer or principal that relates to or arises from the contract or proposed contract under which **you** were, are or are proposed to be employed or contracted to provide **healthcare services** in **your field of practice**; or

iii) pursuing an allegation or claim by **you**, as an employee, against **your** former, current or proposed employer or, as a contracted staff member, against **your** principal that, in either case, relates to or arises from a breach or alleged breach of the contract under which **you** were, are or were to be employed or engaged to provide **healthcare services** in **your field of practice**. However, in relation to any claim by **you** for unpaid remuneration or other monies, **we** will not pay any **legal costs** greater than the amount reasonably sought by **you** in that claim;

in each case of sub-clauses (i), (ii) or (iii) above, including a complaint under anti-discrimination or equal opportunity legislation; or

iv) pursuing an allegation or claim by **you** of lack of procedural fairness in relation to a decision which has resulted in a mid-term suspension or revocation of **your** credentialing with a hospital or health service;

but only when:

a) **you** first become aware of the allegation or **claim against you** or the matters which give rise to an allegation or claim by **you** against another during the **period of insurance**; and

b) **you** tell **us** in writing during the **period of insurance** about the allegation or **claim against you** or the matters which give rise to an allegation or claim by **you** against another; and

c) the allegation or **claim against you**, or allegation or claim by **you** against another, arises from an act, omission or event occurring on or after the **retroactive date** and not within any **non-practising** period.

We will not pay or incur, or continue to pay or incur, **legal costs** of **you** pursuing any allegation or claim by **you** against another if **we**, in **our** absolute discretion, consider that such allegation or claim does not have reasonable prospects of success, or for any other reason should not be pursued. These reasons can include, but are not limited to:

i) **legal costs**; and

ii) that, even if successful, in **our** opinion, the outcome is unlikely to provide a substantial benefit to **you**. **We** may, but are not obliged to, seek legal advice as to the merits, prospects of success and likely outcome of such allegation.

We will not cover **you** for the costs of any other party involved in the employment or credentialling disputes the subject of this clause.

We do not cover **you** under this clause in respect of an allegation or **claim against you** or allegation or claim by **you** against another, arising from bodily injury, mental injury, sickness, disease, disability, incapacity or death. Also see exclusions, including clause 26.24.

Medical College training disputes (medical practitioners only)

19. If **you** are a **medical practitioner**, **we** will cover **you** for **legal costs** incurred by **us** on **your** behalf in pursuing or defending against an internal complaint or appeal under the by-laws of a medical college arising out of **your** involvement (either as an existing trainee or as a trainer) with a training program approved by that medical college, but only when:

    a) **you** first become aware of the complaint or appeal or the facts and circumstances giving rise to the complaint or appeal during the **period of insurance**; and

    b) **you** tell **us** in writing during the **period of insurance** about the complaint or appeal; and

    c) the complaint or appeal relates to an act, omission or event occurring on or after the **retroactive date** and not within any **non-practising** period.

    Legal costs do not include any fees payable for the lodgement of an appeal.

    We will not pay or incur, or continue to pay or incur, **legal costs** of **you** pursuing any complaint or appeal if **we**, in **our** absolute discretion, consider that the pursuit of such complaint or appeal does not have reasonable prospects of success, or for any other reason should not be pursued. These reasons can include but are not limited to:

    i) **legal costs**; and

    ii) that, even if successful, in **our** opinion, the outcome is unlikely to provide a substantial benefit to **you**.

    To assist **us** decide whether to pay or incur, or continue to pay or incur, **legal costs** of **you** pursuing any complaint or appeal **we** may, but are not obliged to:

    (a) obtain legal advice;

    (b) request that **you**, at **your** own expense, obtain and furnish to **us** legal advice on the prospects of success, likely outcomes, processes, likely time frames and likely **legal costs** of pursuing any complaint or appeal.

    If, as a result of the legal advice **you** obtain, **we** decide to pay or incur, or continue to pay or incur, **legal costs** of **you** pursuing any complaint or appeal, **we** will cover **you** for the reasonable cost of that advice.

    If **we** do advance legal costs to **you**, and **we** subsequently determine that **we** have no liability to pay those legal costs under this clause, then **you** must repay those **legal costs** to **us**.

    We do not cover **you** for the costs of the medical college.

Additional Benefits

Loss of Income (medical practitioners only)

20. If **you** are a **medical practitioner**, **we** will reimburse **you** for your personal income forgone by **you** as a result of **you** attending a hearing at court if and only if it is with respect to a matter for which **you** are covered under clause 1 of this Policy and;

    a) lawyers instructed by us on **your** behalf confirm in writing that **your** attendance is required; and

    b) **you** are unable to work on the relevant day due to **your** attendance at court; and

    c) **you** furnish to **us** evidence, satisfactory to **us**, of **your** loss of income and that the loss of income resulted from **your** attendance at a hearing at court.

Loss of Documents (medical practitioners only)

21. If **you** are a **medical practitioner**, in the event of any **loss of documents** which in the ordinary course of **your** providing **healthcare services** were in **your** possession or in the possession of those to whom the **documents** were entrusted by **you**, **we** will cover **you** for the reasonable costs and expenses incurred by **you** in replacing or restoring those **documents**, but only when:

    a) the **loss of documents** occurred, or **you** first become aware of, the **loss of documents** during the **period of insurance**; and

    b) **you** notify **us** in writing during the **period of insurance** about the **loss of documents**; and

    c) **we** have agreed to the costs of replacement or restoration before they are incurred.

    See exclusion in clause 26.26.

Communicable disease cover

22. **We** will cover **you** for **communicable disease**, but only when:

    i) **you** are first diagnosed as having a **communicable disease** during the **period of insurance**; and

    ii) **you** tell **us** in writing during the **period of insurance** about the diagnosis; and

    iii) if **you** are insured under **your** Policy as:

        a) a **medical practitioner**, **you** show **us** that, solely by reason of that diagnosis, **you** have permanently ceased practice as a **medical practitioner** or substantially altered **your** practice of medicine; or

        b) a **medical student**, **you** show **us** that, solely by reason of that diagnosis, **you** have permanently ceased studies as a **medical student**.

    but not if:

    iv) **you** have been diagnosed prior to the commencement of the **period of insurance** as having the **communicable disease**; or

v) **you** knew or a reasonable person in **your** professional position could be expected to have known that **you** had the **communicable disease** before the date when **we** first commenced providing insurance for **communicable disease** to **you** under insurance that **you** have continuously renewed with **us** from that date until the **period of insurance**; or

vi) **you** have previously received a payment from **us**, another insurer, a medical defence organisation or medical indemnity provider as a result of **your** having been diagnosed as having the same or any other **communicable disease**.

The amount **we** will pay will be the amount set out for the Sub-Limit of Indemnity for clause 22 in the **Certificate of Insurance** for:

a) a **medical student** if **you** were a **medical student** at the time of the diagnosis; and

b) a **medical practitioner** if **you** were a **medical practitioner** at the time of the diagnosis.

The amount for **communicable disease** is payable once only and only for one **communicable disease**.

Continuous Cover (medical practitioners only)

23. If, prior to the **period of insurance**, **you** fail to inform **us** of an act, omission or event which **you** knew, or a reasonable person in **your** professional position could be expected to have known, might give rise to a **claim against you** or other matter for which **you** claim under the Policy then, despite the exclusion in clause 26.2, **we** will cover **you** but only when:

a) **we** were **your** professional indemnity insurer when **you** first knew or a reasonable person in **your** professional position could be expected to have first known that the act, omission or event might give rise to a **claim against you** or other matter for which **you** claim under the Policy;

b) **we** continued, without interruption, to be **your** professional indemnity insurer until this Policy came into effect;

c) the act, omission or event had not previously been notified to **us** or any other insurer; and

d) **your** failure to inform **us** of the act, omission or event was not fraudulent misrepresentation or fraudulent non-disclosure.

Our liability to cover **you** under this clause is limited to the lesser of the covers available under the terms of the policy in force at the time referred to in paragraph (a) or under this Policy. Without limiting the operation of this provision the effect is that, if there was no cover under either the earlier policy or this Policy, this clause does not extend cover to **you**.

The terms of this **Policy** otherwise apply, including, without limitation, remedies arising from prejudice caused by late notification.

How much we will pay

24. The Maximum Level of Indemnity (which is inclusive of any **deductible**) and, provided the Maximum Limit of Indemnity is not exceeded, the sub-limits of indemnity (which are inclusive of any **deductible**) are set out in the following table.

The total amount we will pay for the aggregate of all claims, legal costs and other matters paid under your Policy during the period of insurance will not exceed the Maximum Limit of Indemnity (which is inclusive of any deductible) set out in the Certificate of Insurance	**Maximum Limit of Indemnity (which is inclusive of any deductible)**
All claims, **legal costs** and other matters paid under **your** Policy during the **period of insurance**	$20,000,000 in the aggregate
Provided that the Maximum Limit of Indemnity (which is inclusive of any deductible) is not exceeded, the following sub-limits (which are inclusive of any deductible) apply during the period of insurance	**Sub-limits (which are inclusive of any deductible) as set out below**
For all claims under clause 11 – Statutory fines and penalties for breaches of the *Privacy Act 1988* (Cth); and Clause 14 – Costs of mandatory notification arising from breaches of the *Privacy Act 1988* (Cth)	$250,000 in the aggregate
Clause 13 – Pursuit of a defamation allegation against another	$100,000 in the aggregate for **legal costs** for the pursuit of defamation allegations but only after the exhaustion of $20,000 **deductible** payable by **you**
For all claims under clauses 15 and 16(ii) and (iii) – **Legal costs** for **investigations**, **inquiries**, self-referrals regarding a health impairment and claims under the Policy with respect to sexual misconduct and **criminal conduct**	$2,000,000 in the aggregate
Clause 17 – **Legal costs** for **you** seeking an Apprehended Violence Order against another	$100,000 in the aggregate

Clause 18 – **Legal costs** of employment disputes and credentialing disputes	$100,000 in the aggregate but in relation to **legal costs** for any claim by **you** against another for unpaid remuneration and other monies under clause 18(iii) **we** will not pay more than the amount reasonably sought by **you** in that claim
Clause 19 – **Legal costs** of medical college training disputes	$100,000 in the aggregate
Clause 20 – Loss of income for attending a hearing at court with respect to a civil liability **claim against you**	$20,000 in the aggregate with a maximum of $2,000 per day for up to 10 days
Clause 21 – **Loss of documents**	$100,000 in the aggregate
Clause 22 – **Communicable disease** cover	• $100,000 **medical practitioners** • $50,000 **medical students** Payable once only per Insured and for only one **communicable disease** as defined

Single claim

25. Where:

a) an act or omission;
b) one or more related acts or omissions; or
c) any course of related treatment

gives rise to more than one **claim against you**, (whether by one or more claimants) all such claims against **you** will constitute a single **claim against you**.

Without limiting the circumstances which constitute a single claim, all **claims against you**:

i) forming part of a class, group or representative action; or
ii) relating to the pregnancy of any one woman or the birth of the child or the children from that pregnancy

will constitute a single **claim against you**.

Where:

a) an act or omission;
b) one or more related acts or omissions;
c) any course of related treatment; or
d) any acts or omissions which are substantially in common with each other

gives rise to more than one **investigation** or **inquiry**, all such investigations and inquiries will constitute a single matter for which **you** claim under the Policy.

All claims under the Policy (including those constituting a single **claim against you** and a single matter for which **you** claim under the Policy):

a) which arise from an act or omission;
b) which arise from one or more related acts or omissions;
c) which arise from any course of related treatment;
d) forming part of a class, group or representative action;
e) relating to the pregnancy of any one woman or the birth of the child or the children from that pregnancy; or
f) (with respect to investigations and inquiries) which arise from any acts or omissions which are substantially in common with each other

will constitute a single claim under the Policy and will be deemed (including for the purpose of determining the applicable limits of indemnity) to have been first made at the earliest of either the time the earliest claim was made against **you**, or the time the **investigation** or **inquiry** first arose, regardless of whether that time is before or during the period of insurance.

Where more than one limit applies to claims constituting a single claim under the Policy, the amount payable, in the aggregate, shall not exceed the highest of those applicable limits.

Where more than one deductible applies to claims constituting a single claim under the Policy, the highest applicable deductible is to apply once.

Exclusions

What we do not cover

26. **We** will not cover **you** or make a payment under **your** Policy when:

26.1 and to the extent that **you** are entitled to indemnity under:

a) any other contract of insurance

b) any indemnity arrangement or scheme (including but not limited to an indemnity provided by **your** employer or a discretionary indemnity scheme provided by a professional defence organisation or mutual fund) whether current or not,

c) any law,

d) any contract, or

e) any other arrangement

that in each case is not a contract of insurance entered into by **you** or, if it is such a contract, is required to be effected by or under a law in Australia or any State or Territory in Australia.

26.2 the matter for which **you** claim under the Policy:

a) was known by **you**, or a reasonable person in **your** professional position could be expected to have known; or

b) arises out of an act, omission or event which **you** knew, or a reasonable person in **your** professional position could be expected to have known might give rise to the matter,

before the **period of insurance** commenced, but this exclusion does not apply for the purposes of clause 22(v);

26.3 the matter for which **you** claim under the Policy arises from circumstances which **you** notified to **us**, to another insurer, medical defence organisation or indemnity provider before the **period of insurance**;

26.4 the **claim against you** arises in any way out of **your** provision of **healthcare services** to a public patient in a public hospital except to the extent that **we** have confirmed in writing that **you** are covered under clause 1;

26.5 the **claim against you** arises out of the provision of medical treatment (other than emergency medical treatment) by **you** to a member of **your immediate family**;

26.6 the matter for which **you** claim under the Policy arises in any way out of an act or omission by **you** when **you** were not registered or were prohibited from practising, or involved **you** acting outside of, or not complying with the terms, conditions, limitations or requirements of **your** registration;

26.7 the **claim against you**, **investigation** or **inquiry**, arises in any way out of a practice or procedure not within with **your field of practice**, except where the **claim against you**, **investigation** or **inquiry** for which **you** claim under the **Policy** relates to Good Samaritan acts described in clause 5.

However, if the **claim against you**, **investigation** or **inquiry** arises from an act or omission occurring prior to the **period of insurance** but while **we** were **your** insurer then, for the purpose of this exclusion only, **field of practice** is altered to mean the **field of practice** set out in the **Certificate of Insurance** in place at the time of that act or omission;

26.8 the matter for which **you** claim under the Policy arises because of **your** continuing a procedure or practice in the provision of **healthcare services** 14 days after **you** have received notice from **us** under clause 35 asking **you** to stop the procedure or practice;

26.9 the matter for which **you** claim under the Policy arises in any way out of or in connection with defamation or any allegation of defamation, except to the extent that we agree to cover **you** under clauses 4, 9, or 13;

26.10 the **claim against you** arises in any way from any of the following activities in connection with a clinical trial or research project:

a) **your** sponsorship, administration, design or control of the trial or project;

b) adverse outcomes where **you** did not provide **healthcare services**;

c) the clinical trial or research project protocol;

d) **your** overseeing the clinical trial or research project or any act or omission by **you** as a member of an ethics committee;

26.11 the **claim against you** or **inquiry** arises in any way out of the direct or indirect transmission of a disease when, at the time of transmission, **you** knew or reasonably should have known that **you** or another infected person was carrying the disease;

26.12 the matter for which **you** claim under the **Policy** arises in any way out of any alleged:

a) sexual misconduct or **criminal conduct**, except to the extent that **you** are covered for your **legal costs** under clause 16; or

b) sexual misconduct, including sexual harassment, except to the extent that **you** are covered for **legal costs** under clause 18(i), 18 (ii) or 18 (iii);

26.13 the matter for which you claim under the Policy arises in any way out of any actual or alleged:

a) sexual misconduct or **criminal conduct**, except to the extent that **you** are covered for **your legal costs** under clause 16; or

b) sexual misconduct, including sexual harassment, except to the extent that **you** are covered for legal costs under clause 16(i), 16 (ii) or 16 (iii);

26.14 the matter for which **you** claim under the Policy arises in any way out of any wilful violation or breach of any statute or regulation or out of any act committed with dishonest, malicious or criminal intent;

26.15 and to the extent that **you** are obliged:

a) to refund any fee charged to or in respect of a patient; or

b) to pay a fine or a civil or criminal penalty, except to the extent that **we** agree to cover **you** under clause 11; or

c) to pay punitive, aggravated or exemplary damages; or

d) in relation to matters under clauses 13, 16, 17, 18 and/or 19, to pay any other party any amount for costs;

26.16 the **claim against you** arises in any way out of the development, manufacture, storage, supply or endorsement of any good or product, except for the manufacture or supply of a product by **you** as an intrinsic part of **you** providing **healthcare services** to **your** patients;

26.17 the **claim against you** or **inquiry** arises in any way out of the unlawful sale, supply, use or administration of any substance;

26.18 the matter for which **you** claim under the Policy arises in any way out of the ownership, use, lease, occupation or state of any premises or anything done or omitted to be done in respect of the state of any premises;

26.19 the matter for which **you** claim under the Policy arises in any way out of or in connection with an actual or threatened pollution of the environment (including exposure to asbestos) or a requirement for **you** to deal with that pollution exposure, except for the provision of **healthcare services** to a patient who has symptoms, whether actual or alleged, as a result of exposure to pollution (including asbestos), whether directly or indirectly;

26.20 the matter for which **you** claim under the Policy arises in any way out of:

a) any contract for the sale or purchase of any asset, property or investment, including a contract for the purchase or sale of all or part of **your** or another practice;

b) any dispute arising out of or in connection with an employment contract or contract for services entered into in connection with **your** sale of a practice;

c) any contractual liability, warranty or guarantee except if **you** would have been otherwise liable in the absence of the contractual liability, warranty or guarantee;

d) any trading debt or guarantee for payment of a trading debt;

e) payment or non-payment of any dividend or other form of profit sharing or distribution

26.21 the matter for which **you** claim under the Policy arises out of or is connected with acts of terrorism, war, invasions, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, insurrection, military or usurped power. This exclusion does not apply to any healthcare procedure performed as a result of or in an attempt to prevent any injuries arising out of any terrorism, war or warlike situation;

26.22 the matter for which **you** claim under the Policy arises out of:

a) proceedings in or a judgment or order:

i) by a court, tribunal or other body outside of Australia; or

ii) by a court, tribunal or other body which apply the laws of a country other than Australia; or

iii) based on, derived from or to enforce a judgment or order by a court, tribunal or other body referred to in (i) or (ii); or

b) acts or omissions which occur or are alleged to occur outside the Commonwealth of Australia or its territories or protectorates with the exception of:

i) covers under the following clauses where the act or omission can occur anywhere in the world:

(A) overseas cover under clause 6 (a)(i); and

(B) loss of documents cover under clause 21,

and

ii) covers under the following clauses where the act or omission can occur anywhere in the world other than in the United States of America or its territories:

(A) overseas cover under clauses 6 (a) (ii) and (iii) and 6 (b); and

(B) telehealth cover under clauses 7 (a) (ii), 7 (b) and 7 (c).

This exclusion does not apply to Good Samaritan acts described in clause 5;

26.23 **you** have, without **our** written consent, admitted liability with respect to any matter for which **you** claim or may be entitled to claim under the Policy;

26.24 the matter for which **you** claim under the **Policy**:

a) is a matter in respect of which **we** are prohibited from providing or not authorised to provide cover, including but not limited to workers' compensation. For the avoidance of doubt, and without limiting the operation of this exclusion, **we** will not, for example, cover **you** or make a payment with respect to any workers compensation claim by **you** or against **you**; or

b) arises in any way out of a **claim against you** for personal injury or property damage by an employee or contractor of **yours** (or of a practice entity controlled by **you**), in the course of their employment or engagement;

26.25 the **claim against you** arises in any way out of or in connection with **your** provision of advice to or at the request of a State, Federal or other government, agency or body in relation to the management of any **pandemic disease**, unless **we** have agreed in writing to extend cover and then only on the terms of the extension.

26.26 the matter for which **you** claim under clause 14 (Breach of Privacy) or clause 21 (Loss of Documents) of the **Policy** arises in any way out of **cyber loss**.

For the purposes of this exclusion only:

"Cyber loss" means any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any cyber act or cyber

incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any cyber act or cyber incident.

"Cyber act" means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any computer system.

"Cyber incident" means:

a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any computer system; or

b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any computer system.

"Computer system" means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

"Data" means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a computer system;

26.27 the **claim against you** or **inquiry** arises in any way out of the provision of healthcare by **you** while intoxicated or otherwise impaired by the use of an intoxicant or drug, except for the reasonable refusal to provide **healthcare services** because of the influence of such intoxicant or drug;

26.28 the **claim against you** arises in any way out of:

a) **your** assessment that a patient under the age of 18 years is suitable for gender transition; or

b) **you** initiating prescribing of gender affirming hormones for any patient under the age of 18 years.

27. In addition to clause 26, if **you** are a **medical practitioner**, **we** will not cover **you** or make a payment under **your** Policy when:

27.1 the matter for which **you** claim under the Policy arises from the acts or omissions of an employee, contractor or any other person when those acts or omissions were:

a) outside the terms and conditions of his or her employment, contract or agreement; or

b) outside the boundaries of his or her training and/or qualifications; or

c) not under **your** supervision;

27.2 the **claim against you** is by an employee or contractor of **yours** or of a

practice entity controlled by **you**, except to the extent that **you** are covered for **legal costs** under clause 18 or the **claim against you** arises directly out of **your** provision of **healthcare services** limited to healthcare treatment, services or advice or a report of those things provided to that person as a patient;

27.3 the matter for which **you** claim under the Policy arises in any way out of a dispute between **you** and a current, former or prospective partner or co-owner or director, other than a **claim against you** of professional negligence;

27.4 the matter for which **you** claim under the Policy is in connection with an allegation or **claim against you** or by **you** against another relating to **your** credentialing with a hospital or **health service**, except to the extent that **you** are covered under clause 18(iv).

28. In addition to clause 26, if **you** are a **medical student**, **we** will not cover **you** or make a payment under **your** Policy when:

28.1 the matter for which **you** claim under the Policy arises in any way out of **your** provision of **healthcare services** where **you** are acting outside the terms and guidelines of **your** university elective or scholarship placement, except where the matter for which **you** claim under the Policy relates to Good Samaritan acts described in clause 5, or **we** have agreed in writing to extend cover;

28.2 the matter for which **you** claim under the Policy arises in any way out of **your** provision of **healthcare services** when **you** are not under the supervision of a **medical practitioner**, except where the matter for which **you** claim under the Policy relates to Good Samaritan acts described in clause 5;

28.3 the matter for which **you** claim under the Policy arises in any way out of **your** provision of **healthcare services** in respect of which **you** represented or held yourself out as a **medical practitioner**;

29. **We** may reject a claim under **your** Policy if the claim or any part of the claim is fraudulent or made fraudulently. In the event **we** reject such a claim **you** must reimburse **us** for all sums paid in connection with the claim.

Conditions - What You must do

30. **You** must comply with the following conditions set out in clauses 31 to 42 (inclusive). If **you** fail to do so, subject to the *Insurance Contracts Act 1984* (Cth), **we** can do any one or more of the following:

i) refuse to pay (either in whole or in part) any claim **you** make under the Policy;

ii) not provide **you** with assistance (or withdraw assistance); and

iii) cancel **your** Policy.

Payment of premium

31. **You** must pay the premium or, if **we** agree, any instalment of premium, on or before

the date it is due.

Payment of deductible

32. It is a condition precedent to cover that **you** must pay, as directed by **us**, the applicable **deductible** for each and every relevant matter for which **you** seek cover under the Policy.

You have to notify us of a claim against you

33. **You** must notify **us** in writing as soon as practicable after **you** become aware of any **claim against you**, **investigation**, **inquiry**, criminal action, prosecution or **loss of documents**.

Other Insurance

34. If **you** seek cover under **your** Policy **you** must tell **us** about any other insurance or other entitlement to indemnity that may indemnify or compensate **you**, including the identity of the other insurer or indemnifier, the policy number and any other information that **we** may reasonably require.

Stop Notice

35. **You** must stop a procedure or practice in providing **healthcare services** if:
    a) **we** consider that the procedure or practice poses an unreasonable risk of giving rise to a **claim against you**, **investigation** or **inquiry**; and
    b) **we** give **you** 14 days' notice asking **you** to stop the procedure or practice.

Your duty to co-operate

36. **You** must, at **your** expense:
    a) give **us**, **our** investigators and legal representatives all information, documents, and assistance **we** reasonably require including without limitation access to books and records of **your healthcare practice** and books and records of **your** medical services; and
    b) co-operate fully with **us**, our investigators and legal representatives; and
    c) attend any risk management meetings that **we** request in writing and co-operate fully with **us** by providing **us** with all information concerning **your** risk management.

37. **Your** duty to co-operate includes, but is not limited to:
    a) providing medical records, treatment notes, billing records, tax returns and other financial documents;
    b) providing information and identifying and locating witnesses;
    c) permitting **our** investigators and legal representatives access to **your** practice records and records of **your** medical services;
    d) attending meetings in person or by telephone with **us** or **our** investigators or legal representatives or experts engaged by or for **us**, for the purpose of being interviewed or providing information or evidence in oral or written form;

e) co-operating with **our** investigators and legal representatives in the preparation, defence or conduct of legal proceedings;

f) refraining from direct communication with any court, tribunal or other decision-making body and any other party involved in a **claim against you**, an **investigation** or **inquiry**, or an allegation made by **you** without, or contrary to, approval or advice from **us** or **our** legal representatives;

g) attending court, **investigations**, **inquiries** and other hearings for the purpose of giving evidence or assisting **our** legal representatives;

h) undergoing medical and other examinations;

i) seeking **our** consent, or advice from **our** legal representatives, in relation to and before communicating with other persons or entities involved in a **claim against you**, an **investigation** or **inquiry** or an allegation pursued by **you**; and

j) complying with **our** requests for information, including for evidence of **gross annual billings** and other financial information.

Note: **Gross annual billings** means the total annual billings generated by **you** from all areas of **your** practice for which **you** are required to have indemnity cover from **us** within the financial year. This is whether the funds are retained by **you** or not, and before any apportionment or deduction of expenses and/or tax.

Information to help **you** to ensure that **your** gross annual billings are accurately calculated is contained in **our** Risk Category Guide accessible on the **Download centre** of **our** website.

38. **You** agree to waive any legal professional privilege to the extent only that the privilege would otherwise prevent any legal representative appointed by **us** from disclosing information to **us**.

Prevention of Loss

39. **You** must not, without **our** prior written consent:

a) admit liability for a **claim against you** or potential **claim against you**; or

b) do or not do anything which may compromise **us**, including **our** ability to defend **you** against a **claim against you** or potential **claim against you** or assist **you** in an **investigation** or **inquiry**; or

c) make any payment or settlement, or offer of payment or settlement, of any **claim against you** or potential **claim against you**; or

d) surrender any right to, or settle any claim by **you** against another for, contribution, indemnity or recovery in respect of which **we** may be liable to cover **you**.

40. **You** must use all reasonable measures to avoid or reduce any liability under the Policy.

Alteration of risk

41. **You** must give **us** notice as soon as practicable of any material alteration in the risk during the **period of insurance**, including without limitation:

a) any change in the nature or extent of **your** practice or the services **you** provide;
b) the provision of services which differs from **your field of practice**;
c) any change in **your gross annual billings**;
d) **your** registration ceases or in any way changes including, without limitation, the imposition of any conditions; or
e) **you** retire or cease practice;

We may but are not obliged to (either during the **period of insurance**, or upon renewal), insure the altered risk. If **we** do decide to insure the altered risk **we** can, among other things, (to reflect the change in risk) adjust the premium that **you** are liable to pay and amend the terms of **your** Policy.

If **we** decide to increase the premium, **you** must pay **us** the increased premium within 30 days of **our** tax invoice to **you**. **We** may also decide to reduce the premium.

Failure to notify **us** of any alteration may result in **us** exercising rights including refusing to pay **your** claim.

Proof of Billings

42. If **we** request it, **you** must provide **us** with independent evidence (such as an accountant's report) of **your gross annual billings** for the **period of insurance** within 30 days of the request. If **your gross annual billings** vary from the range shown in **your field of practice** (or as otherwise declared by **you**), **we** will be entitled to exercise rights against **you** including cancellation of the Policy, charging further premium and/or recovering additional premium from **you** which, as a result of the variance in **your gross annual billings**, becomes owed to **us**.

If **you** do not provide the evidence within 30 days after **our** request, **we** may cancel **your** Policy. **Your** obligations under this clause and **our** entitlement to adjust the premium continue after the termination, expiration or cancellation of the Policy. **You** agree that **we** are entitled but not obliged to conduct an audit of **your gross annual billings** and an audit that **your** practice is consistent with **your field of practice** (or as otherwise declared by **you**).

Note: **Gross annual billings** means the total annual billings generated by **you** from all areas of **your** practice for which **you** are required to have indemnity cover from **us** within the financial year. This is whether the funds are retained by **you** or not, and before any apportionment or deduction of expenses and/or tax.

Information to help **you** to ensure that **your gross annual billings** are accurately calculated is contained in **our** Risk Category Guide accessible on the **Download centre** of **our** website.

What we can do

Allocation of defence costs

43. If a **claim against you**, **investigation** or **inquiry** or other matter includes both allegations in relation to which **you** are entitled to cover under **your** Policy and

allegations in relation to which you are not entitled to cover under **your** Policy, **we** will pay only that proportion of costs or legal costs which are attributable to the covered allegations.

We will determine in **our** absolute discretion the allocation of costs or **legal costs** between the covered allegations and the uncovered allegations and will inform **you** of **our** determination in writing. In determining the allocation of costs or **legal costs**, **we** will have regard to the proportion which that part of the **claim against you**, **investigation**, **inquiry** or other matter consisting of covered allegations bears to the whole of the **claim against you**, **investigation**, **inquiry** or other matter.

Our right to the conduct and control of proceedings

44. **You** agree that:

a) **we** have the right to conduct and control all matters that **we** agree to cover under **your** Policy, including their investigation, defence, pursuit, avoidance, reduction, settlement and, subject to clause 45, any appeal as **we** see fit; and

b) **we** may do so in **your** name.

We will not admit liability for or settle any **claim against you**, or resolve any **investigation**, **inquiry** or other matter without **your** prior consent, provided that **your** consent is not withheld unreasonably. In determining whether **your** consent has been withheld unreasonably, **we** can take into account any factor including but not limited to:

i) the merits and prospects of success;

ii) whether, even if successful, the outcome is likely to provide a substantial improvement to **you**; and

iii) costs.

We may, but are not obliged to, seek legal advice.

c) If **you** do not consent to **our** settling a **claim against you**, or otherwise resolving an **investigation**, **inquiry** or other matter, **your** entitlement to cover for legal costs will cease and at **our** option:

   i) **we** will settle the **claim against you**, or resolve the **investigation**, **inquiry** or other matter; or

   ii) **our** liability is limited to the amount **we** recommend in settlement and payment of **legal costs** up to the date that **we** recommended to **you** settlement of the **claim against you** or resolution of the **investigation**, **inquiry** or other matter.

Appeals

45. If **you** are dissatisfied with the decision made by a court, board, tribunal or other decision making body in a matter in which **we** have covered **you** or advanced **legal costs** to **you** under **your** Policy, and **you** want to appeal against that decision, **you** must request **our** written approval within 14 days after the decision is handed down, or within such shorter period as would be reasonable having regard to the time limit

for an appeal to be filed. **You** must do so in writing, setting out **your** reasons for wanting to appeal. **We** will inform **you** in writing whether or not **we** consent to pay **your legal costs** of the appeal.

We will not pay or incur, or continue to pay or incur, **legal costs** of **you** pursuing any appeal if **we**, in **our** absolute discretion consider that:

a) such an appeal does not have reasonable prospects of success;

b) even if successful, the outcome is unlikely to provide a substantial improvement for **you**; or

c) for any other reason, including but not limited to **legal costs**, such an appeal should not be pursued.

We may, but are not obliged to, seek legal advice as to the merits, prospects of success and likely outcome of such an appeal.

Our decision to pay **your legal costs** of any appeal is final and at **our** complete discretion. If **you** decide to appeal without **our** consent, **we** will not pay any additional **legal costs** associated with the appeal or any further amount which may be an outcome of the appeal.

If **your** appeal is successful and **you** are entitled to a payment or refund of **legal costs** paid by **us** and/or any money that **we** paid the claimant, that payment or refund becomes a debt to **us** and **you** must forward that payment or refund to **us** less any legal fees and expenses **you** have incurred in the appeal.

The amount payable under the Policy in respect of any appeal is included in the relevant sublimit.

Subrogation

46. If **we** make a payment under **your** Policy, **we** are subrogated to all of **your** rights of contribution and indemnity or recovery.

Cancellation

47. **You** may cancel **your** Policy at any time by:

a) contacting Member Services on 1800 011 255

b) emailing peaceofmind@mdanational.com.au; or

c) writing to **us**.

If **you** cancel **your** Policy within the cooling off period of 21 days after it was issued to **you**, **your** premium will be refunded in full with no cancellation fee deducted.

If **you** cancel **your** Policy outside the cooling off period, a cancellation fee applies which is equivalent to 45 days' premium.

If **you** have paid **your** premium in full, **we** will deduct this cancellation fee from the refund. If **you** are paying the premium in instalments, **you** are still liable to pay the cancellation fee.

We will issue any refund directly to **your** nominated bank account or issue a refund cheque to **your** last known address or if instructed by **you** donate the amount to a

registered charity identified within **our** Corporate Social Responsibility program.

There will be no refund of premium (but **our** rights to a cancellation fee are maintained) where:

a) the total premium paid is $20 or less; or

b) **you** have notified a claim or potential claim under the Policy.

Within 30 days of cancellation **you** must pay to **us** any cancellation fee and any outstanding premium owing at the date of cancellation, failing which **we** may recover those amounts from **you** as a debt.

48. **We** may cancel **your** Policy by giving **you** three business days' written notice if:

a) **you** fail to disclose or misrepresent to **us** any information that **you** know or could reasonably be expected to know was relevant to **our** decision to insure **you** and on what terms; or

b) **you** fail to comply with **your** duty of utmost good faith to **us**; or

c) **you** fail to comply with any provision of **your** Policy including but not limited to a condition or the provision to pay the premium and to pay the **deductible**; or

d) **you** are paying **your** premium by instalments and at least one instalment remains unpaid for over one month; or

e) **you** fail to comply with any provision of **your** Policy which requires **you** to notify **us** including **your** obligation to notify **us** of any change in the services **you** provide; or

f) **you** make a fraudulent claim under the Policy.

Within 30 days of cancellation **you** must pay to **us** any outstanding premium owing at the date of cancellation, failing which **we** may recover the outstanding premium from **you** as a debt.

Recovery costs

49. **We** have the right to engage third parties to collect from **you** money **you** owe **us** and, subject to any relevant legislation, **you** must pay reasonable costs incurred in recovering that money.

Governing law

50. Any dispute that arises between **you** and **us** under **your** Policy will be subject to the law and jurisdiction of Western Australia.

Interpretation

SECTION 4 —

FINANCIAL SERVICES GUIDE

51. Under **your** Policy the masculine includes the feminine gender; neuter genders include any other gender; and the singular includes the plural and vice versa unless the context otherwise requires.

This Financial Services Guide (FSG) provides you with information about MDA National Insurance Pty Ltd ABN 56 058 271 417 (MDA National Insurance) to help you decide whether to use the financial services we provide.

It also explains:

- how MDA National Insurance, our staff and other parties are remunerated in relation to those services;
- other documents you may receive in relation to the provision of our financial products and services;
- how we safeguard your personal information; and
- details of our internal and external complaints handling procedures should you need them.

Who are we?

MDA National Insurance is a general insurer authorised by the Australian Prudential Regulation Authority. We hold an Australian Financial Services Licence Number 238073 and are authorised to provide financial product advice and claims handling and settling services in relation to, and deal in, general insurance products. We are a wholly owned subsidiary of MDA National Limited ABN 67 055 801 771 (MDA National).

Who do we act for?

MDA National Insurance acts on its own behalf as an insurer. We do not act on your behalf.

What financial services and products do we offer?

We currently offer the following professional indemnity insurance products:

- Professional Indemnity Insurance Policy
- Practice Indemnity Policy
- Dental Indemnity Policy
- Run-off under the Run-off Cover Scheme (ROCS)

Our Professional Indemnity Insurance Policy is only available to Members of MDA National, with limited exceptions. MDA National Insurance does not provide financial services and products from related or non-related product providers.

How can you do business with us?

You can obtain the financial services we offer through trained employees of MDA National Insurance.

They can help you apply for our products and may also give you general financial product advice in relation to these products. When giving general financial product advice our employees will not take into account your personal objectives, financial situation and needs. We may give personal financial product advice in limited situations.

How are we remunerated for the services we provide?

We charge a premium for our financial products.

The Commonwealth Government pays us an administration fee to reimburse the costs of administering the Premium Support Scheme (PSS) and the ROCS. These fees may be based on the number of Policyholders and/or Members and are not based on any premium amount. No fee paid to us relating to the PSS or ROCS is deducted out of premiums or any monies paid by Policyholders.

You can give us instructions by telephone, in writing, in person, by email or via our website. In some cases, however, before we provide our products we may require written confirmation and the return of specific documents and completed forms.

How are our employees remunerated for services provided?

The employees of MDA National Insurance who provide our services to you do not receive specific payments or commissions for giving that service. These employees receive salaries.

When and how do we pay other parties?

If you acquire our financial products through an approved broker, we will pay that broker a commission of up to 15% of the total premium and subscription paid by you. We may pay referral fees to third parties who refer business to us as a lump sum amount or a percentage of the total premium. We receive the total premium paid by you and pay commissions and referral fees in a separate transaction back to the broker or third party.

How do we safeguard your personal information?

The protection of your personal information is important to us. We collect and hold your personal information in order to conduct our business and to ensure that we are able to provide you with appropriate products and services. We collect, hold, use, disclose and manage personal (including sensitive) information in order to:

- decide whether to issue a Policy;
- determine the terms and conditions of the Policy;
- analyse data;
- handle claims against you;
- handle your claims under the Policy;
- meet our legal obligations;
- administer Government Schemes; and
- provide our products to you and improve the delivery of our products and services.

As part of our commitment to client service and the protection of your privacy we support, are bound by and comply with the *Privacy Act 1988* (Cth) as amended, which contains the Australian Privacy Principles. You can download the most current version of our Privacy Policy from our website at mdanational.com.au or contact our Member Services team on 1800 011 255 to obtain a copy.

Marketing information

We are committed to providing you with access to leading products and services. From time to time, we may provide you with information on other MDA National Insurance or third party products or services that may be of interest to you. We may also disclose your personal information on a confidential basis to entities within the MDA National Group so that they can also offer you products and services. Further details regarding our obligations in relation to disclosure of your personal information are set out in our Privacy Policy.

If you do not wish to receive this marketing information please follow the opt-out instructions in the relevant marketing communication or:

- contact Member Services on 1800 011 255
- email peaceofmind@mdanational.com.au or
- write to us at PO Box 445 WEST PERTH WA 6872

We will process your request as a matter of priority.

What to do if you want to make a complaint

We are committed to dealing openly with all of our Policy holders and we will endeavour to resolve any complaint quickly, efficiently and fairly. We view complaint resolution as an important part of our continuous improvement process.

A complaint is an expression of dissatisfaction made to or about us, relating to our products or services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

(i) Internal dispute resolution

In our experience, most issues can be resolved by contacting one of our staff. If you do not wish to take up a matter directly with staff, please contact our Complaints Officer by:

Phone: 1800 011 255 (Freecall)

Fax: (08) 9415 1492

Email: complaintsofficer@mdanational.com.au

In writing: PO Box 445 WEST PERTH WA 6872

We will respond to you with a decision within 15 business days provided we have all the necessary information and have completed any required investigation. If you are satisfied with our response, the matter will be considered resolved. If you are not satisfied with our response and wish to pursue the matter further you may wish to refer your complaint to the external dispute resolution scheme to which we belong.

(ii) External dispute resolution

If you are not satisfied with the outcome of our internal dispute resolution process, you can refer the dispute to the Australian Financial Complaints Authority (AFCA). AFCA is an independent and impartial national body established to handle enquiries and complaints and to resolve disputes between consumers and their financial services provider. Its service is free to consumers.

AFCA will review a complaint by you or an insured person only if you or the insured person have first gone through our internal complaints and dispute resolution process and the matter to which the complaint relates is within AFCA's Rules.

There may be categories of complaints that AFCA must exclude but it will review complaints about claims made by you under the Policy arising from health care incidents as prescribed by the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* (Cth) and complaints about premium and risk surcharge. Please note that AFCA is not able to consider matters relating to the Membership of MDA National.

For more information about AFCA and the types of matters it can resolve, visit its website at www.afca.org.au or contact our Complaints Officer. Online complaint forms are available on the AFCA website.

You can contact AFCA by:

Phone: 1800 931 678 (Free call)

Email: info@afca.org.au

Website: **www.afca.org.au**

In writing: GPO Box 3 MELBOURNE VIC 3001

Further information and updates

This FSG is issued 11 May 2023 and applies to financial services provided on or after that date. Please check our website **mdanational.com.au** for updates.

We are required to provide NSW medical practitioners applying for insurance with the following extract from the Insurance Regulation Order made pursuant to the Act.

SECTION 5 —

NSW HEALTHCARE LIABILITY ACT 2001

Insurance Regulation Order 2006

Part 2 – Decisions concerning individual cover

Division 1

1. Preliminary

1) For the purposes of this Part a refusal to provide approved insurance includes:
   i) not accepting an offer to enter into a contract for such insurance; or
   ii) cancelling a contract for such insurance; or
   iii) not renewing such insurance; or
   iv) not offering such insurance.

Copy of requirements of this Part to be provided to practitioners

2) An insurer must provide an applicant for approved insurance or an existing policyholder with a copy of the conditions the insurer must comply with under this Part.

Provision of claims history upon request by practitioner

3) An insurer, within ten working days of receiving a written request from a medical practitioner who:
   a) is covered by approved insurance by the insurer; or
   b) within the immediately preceding six years has been covered by professional indemnity insurance by the insurer, must provide to the medical practitioner his or her record of claims history for whichever is the lesser of the following periods:
      i) the most recent six year period of the insurance cover; or
      ii) the total period that the insurer has provided professional indemnity insurance to the practitioner.

Division 2 – Existing policyholders

2. Decisions concerning individual cover

1) During the period that an adverse decision applies to an existing policy holder, access to risk management activities, which have the purpose of assisting the policyholder to reduce his or her individual claims risk, are to be offered or facilitated by the insurer.

Withdrawal of cover

2) An insurer must not refuse to provide approved insurance to an existing policy holder:

a) who has been registered as a medical practitioner for a period of less than three years and who has not previously had his or her name removed from the medical register following disciplinary proceedings; or

b) who has held specialist qualifications recognised under the Health Insurance Act for a period of less than three years and who has not previously had his or her name removed from the medical register following disciplinary proceedings; or

c) in the case of a medical practitioner to whom paragraph (a) or (b) does not apply, unless the medical practitioner has an incident and claims history the insurer considers warrants such a decision.

3) Sub clause (2) does not apply where an insurer refuses to provide approved insurance:

a) for a reason which is of similar kind to a reason that enables the cancellation of a contract of general insurance, or the avoidance of a claim or policy, in accordance with the relevant provisions of the Insurance Contracts Act; or

b) for a reason which relates to a breach or non-observations by the medical practitioner of the terms and conditions of the relevant insurance policy, or the non-payment of the relevant premium; or

c) because the insurer ceases to engage in the business of providing professional indemnity insurance to non-exempt medical practitioners.

4) For the purposes of this clause a decision by an insurer to charge a medical practitioner a premium which is at least twice the premium charged by the insurer to all, or a majority of, medical practitioners of the same premium category is taken to be a decision to refuse to provide approved insurance.

3. Proper notice and explanation

1) Subject to clause (4) of this Part, an insurer must not (whether upon renewal or otherwise), because of the incident and claims history of an existing policy holder, make an adverse decision in respect of the approved insurance of the policy holder or a decision to refuse to provide approved insurance to the policy holder, unless the insurer:

a) in the case of any adverse decision, has given the policy holder 28 days' written notice prior to the decision taking effect; or

b) in the case of a decision to refuse to provide professional indemnity insurance, has given the policyholder two months' written notice prior to the decision taking effect, together with a copy of the claims history specified at clause 1(3) of this Part.

2) Prior to giving such notice under sub clause (1)(a) the insurer must:

a) give the relevant medical practitioner a reasonable opportunity to discuss the proposed decision and the reasons for it with the insurer, and

b) take into account any matters raised by the medical practitioner in the course of those discussions.

3) If requested by the relevant medical practitioner, the insurer must provide to him or her a written explanation of the reasons for its refusal to provide approved insurance.

4) This clause does not apply where an insurer upon renewal of professional indemnity insurance continues to give effect to an adverse decision made prior to the insurance being renewed.

5) For the purposes of this clause a decision by an insurer to charge a medical practitioner a premium which is at least twice the premium charged by the insurer to all, or a majority of, medical practitioners of the same premium category is taken to be a decision to refuse to provide approved insurance.

4. Opportunity for consideration by Medical Board at practitioner's election

1) This clause applies to a refusal to provide approved insurance because of the incident and claims history of an existing policyholder.

2) For the purposes of this clause a decision by an insurer to charge a medical practitioner a premium which is at least twice the premium charted by the insurer to all, or a majority of, medical practitioners of the same premium category, is taken to be a decision to refuse to provide approved insurance.

3) If within 28 days of receiving notice of a decision to refuse to provide approved insurance in respect of an existing policyholder, the policyholder:

a) authorises the insurer, in writing, to notify the Medical Board of any matter which forms the basis of the decision and to provide to the Medical Board information and documentation relevant to such matter; and

b) authorises the Medical Board, in writing, to provide to the insurer a copy of its advice to the practitioner as to the outcome of any such notification, if made, and in those cases where the Medical Board refers a matter to an Impaired Registrants Panel or for assessment under Part 5A of the Medical Practice Act 1992, copies of any relevant decisions, reports and recommendations arising from the referral, an insurer is to forward the relevant information to the Medical Board.

4) If an insurer is authorised to forward information to the Medical Board under sub clause (3), an insurer is not to give effect to the decision to refuse to provide professional indemnity insurance pending whichever of the following occurs first:

a) the expiration of a period of three months from the date of forwarding the relevant information pursuant to sub clause (3); or

b) receipt and consideration by the insurer of copies of the information referred to under sub clause (3)(b).

5) If such matters are the subject of a referral to an Impaired Registrants Panel or form the basis of a referral for assessment under Part 5A of the Medical Practice Act 1992, the insurer is to:

a) review its decision (whether or not it has already given effect to that decision) following receipt and consideration by the insurer of any reports and recommendations arising from the referral, and of advice of any action taken by the Medical Board consequent upon those reports and recommendations; and

b) take reasonable steps to advise the relevant practitioner of the outcome of that review.

6) Nothing in this clause prevents an insurer from charging a premium of an amount that does not constitute a refusal to provide approved insurance under sub clause (2) pending receipt of the Medical Board's advice or the expiration of three months, whichever first occurs, in accordance with sub clause (3).

Division 3 – New Applicants

5. Decisions concerning individual cover

1) In this clause a refusal of an application for approved insurance includes a decision to not accept an offer to enter into a contract for such insurance.

Newly qualified practitioners

2) An insurer must not make a significant adverse decision in respect of an application for approved insurance from a medical practitioner who has not previously held professional indemnity insurance with that insurer:

a) if the applicant has been registered as a medical practitioner for a period of less than three years and has not previously had his or her name removed from the medical register following disciplinary proceedings; or

b) if the applicant has held specialist qualifications recognised under the Health Insurance Act for a period of less than three years and has not previously had his or her name removed from the medical register following disciplinary proceedings.

Refusal of cover

3) Before giving effect to a decision to refuse an application for approved insurance from a medical practitioner an insurer must give the medical practitioner a reasonable opportunity to discuss the proposed decision and the reasons for it with the insurer.

4) If requested by a medical practitioner whose application for approved insurance is refused, the relevant insurer must provide him or her with a written explanation of the reason for its refusal.

THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY

mdanational.com.au
1800 011 255 peaceofmind@mdanational.com.au

The MDA National Group is made up of MDA National Limited ABN 67 055 801 771 and its wholly owned subsidiary, MDA National Insurance Pty Ltd (MDA National Insurance) ABN 56 058 271 417 AFS Licence No. 238073. Insurance products are underwritten by MDA National Insurance. Before making a decision to buy or hold any products issued by MDA National Insurance, please consider your personal circumstances and the relevant Product Disclosure Statement, Policy Wording and any supplementary documentation available at mdanational.com.au. 209.14