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February 2018

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As you go into 2018, I'm sure you've had at least some fleeting thoughts about a New Year's resolution, or two. Perhaps a couple have already 'slipped through to the keeper'! Changing habits can take real commitment and with a busy schedule it can be all too easy to slip back into your old routine or way of thinking.

New Year's resolutions Tips for success



Start small

Make resolutions you think you can keep. For example, if your aim is to exercise more often, try scheduling exercise 3 or 4 times a week, instead of 7. If you want to eat healthier, try replacing dessert with something else you enjoy, like fruit or yoghurt, rather than deprive yourself completely.



Change one thing at a time

Because behaviours develop over time, changing them also takes time and effort. Don't get overwhelmed by reassessing everything in your life. Instead, work toward changing one thing at a time and celebrate each success.



Talk about it

Share your experiences with family and friends. Teaming up with others to exercise or quit smoking means you can share your struggles and successes, and support each other's journey.



Don't beat yourself up

Perfection is unattainable. Missteps towards your goal are completely normal and OK. Everyone has ups and downs, just make a conscious decision to reset and get back on track. Most importantly, don't use one misstep as an excuse to give up.



Ask for help

Accepting help from those who care about you and will listen strengthens your resilience. If you feel overwhelmed, maybe you need to reconsider and reset your goals, or depending on the goal, consider seeking professional help.

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Happy 2018! We hope your year is off to a fantastic start!

For many young doctors a New Year heralds new challenges, new experiences and marks completion of another step in their journey. If your medical practice is changing this year, it may be timely to review your insurance. If you need any assistance or advice, we are here to help, so please call us.

If you are planning your year, MIGA offers a number of education opportunities through our Risk Management Program and MIGA Plus Business Education.

More information is in this Bulletin. We hope 2018 is a year to remember.

Anant Sandhu
Business Development Advisor

Gearing up for a New Year

(Continued from front cover)

If you are looking to make changes in your practice this year, there are many ways in which MIGA can help you and make achieving your goals much easier. Here are some of the ways we can help:

Quick wins

Here are a couple of quick ways to make a change that will pay dividends for you in 2018:

Stay up to date

Follow us on social media, either through LinkedIn or Facebook to stay up to date with what is happening at MIGA and issues impacting delivery of healthcare services.

Register for Qantas Points

If you haven't already registered, visit our website (miga.com.au/qantas) to register your details and reward yourself in 2018!

Dealing with liability issues

If you have any liability issues impacting your practice that are worrying you or causing concern, give us a call. Our team are available to assist on a variety of matters and if it's outside their expertise they will be able to point you in the right direction to get the help you need.

Education

Making change sometimes requires new learning. MIGA provides access to a broad range of risk education activities (miga.com.au/risk-management-program) that can help you understand and deal with risk in your practice. A range of participation modes are offered to provide easy access. Through our partnership with The Private Practice you can also access a number of courses designed to help you better manage your business. These are offered to you at a significant discount through MIGA's preferential pricing (miga.com.au/business-education).

Safeguarding your business

None of us really knows what lies around the corner, but being prepared is our best protection. Protecting your practice through professional indemnity insurance (miga.com.au/healthcare) and Business Insurance (miga.com.au/business-insurance) with MIGA will help your practice prepare for any eventuality. Our expert staff can help you put these covers in place.

We wish you all the best with your 2018 New Year resolutions and encourage you to consider the tips and stick with it. We also draw your attention to the last tip, 'Ask for help'. We are here to help if you need it, please don't hesitate to ask!

Mandy Anderson

CEO and Managing Director

9
DONATIONS

27
LIVES SAVED

How are we travelling? One month in and we are starting from a low base, but we are confident we can rise to the challenge.

MIGA advocacy

Getting ready for changes to come

Significant changes around privacy, consent and surgical regulation will be introduced over the coming months.

MIGA has been advocating for the interests of its members and clients around these issues for some time, and are seeing positive outcomes through this work.

National - mandatory data breach notification scheme

From 22 February 2018, under the new Notifiable Data Breaches scheme private health care providers will need to inform patients and the Office of the Australian Information Commissioner (OAIC) about any 'eligible data breaches'. These breaches occur where there is unauthorised access to, or unauthorised disclosure of health or other personal information, or loss of such information likely to result in unauthorised access or disclosure, if these events are likely to result in 'serious harm' to the affected individual (usually a patient) which cannot be avoided through remedial action. There is a separate scheme for certain breaches involving My Health Record, and those breaches are not reportable under the Notifiable Data Breaches scheme.

MIGA opposed an earlier suggestion that all 'data breaches' involving health care be notifiable, and was involved in developing the OAIC's guidance on the new regime.

MIGA has materials to assist our members and clients in understanding these new obligations on video and in a risk resource accessible via links opposite¹.

Our materials cover a range of issues including:

- circumstances which may involve an eligible data breach
- what to do when you think there may have been a data breach, and
- how to reduce the risk of a breach.

The OAIC's guidance is available at the link opposite².

Victoria – treatment consent

From 12 March 2018, Victoria will have a new regime for treatment consent where patients cannot give consent.

MIGA was involved in consultation around the new regime, advocating for:

- greater clarity around the use of advance care directives (ACDs) and roles of substitute decision-makers (i.e. family members) when a patient lacks capacity, and
- fair and practical obligations and protections for practitioners around consent to treatment and conscientious objection.

The new regime - the *Medical Treatment Planning and Decisions Act 2016 (VIC)* - includes:

- presumption of patient capacity, and clarity on what constitutes capacity
- wider scope for using ACDs, including for future medical conditions and treatments, inclusion of preferences and values to guide substitute decision-makers and recognition of ACDs validly made elsewhere in Australia
- scope for a patient to appoint a medical treatment decision-maker for when they lack capacity, and to appoint support persons to assist them in making decisions
- except in emergencies, obligations to make reasonable efforts to locate an ACD or an appointed decision-maker when a patient lacks capacity
- good faith protections for practitioners where there is no negligence and reasonable steps were taken to obtain consent to treatment, and
- clarification that practitioners cannot be compelled to provide particular treatment.

The Victorian Government has provided further guidance around the new regime, available at the link opposite³.

South Australia, Queensland and Victoria - surgical regulation changes

From 1 January 2018 in Queensland, 1 May 2018 in South Australia and 1 July 2018 in Victoria, there are significant changes around procedures which must be performed in registered or licensed facilities following similar changes for cosmetic surgery last year in New South Wales. This will effectively increase the numbers of surgeries which now need to be performed in these facilities.

The changes mean the following procedures will need to be performed in registered or licensed facilities:

- Queensland - specific cosmetic surgical procedures, listed at the link below⁴
- South Australia – procedures using:
 - general, spinal, epidural or major regional block anaesthetic
 - local anaesthetic – the new regime only allows GPs and dentists to perform procedures using local anaesthetic in their rooms - MIGA understands it is likely specialists will be permitted to perform procedures within their usual scope of practice using local anaesthetic in their rooms, and
 - IV sedation, other than conscious sedation.

In Victoria, a broad framework has been set and the Victorian Government is now consulting on how those changes will look in practice. MIGA has been involved in both this process and earlier consultations on these issues, advocating for greater national consistency and practicality in surgical regulation.

If you have any questions about what these new changes mean for your practice, contact MIGA's claims solicitors.

Timothy Bowen

Senior Solicitor – Advocacy, Claims & Education

- 1 MIGA video – vimeo.com/250067448 and risk resource - www.miga.com.au/education/resources/Practice-systems/data-breach
- 2 www.oaic.gov.au/privacy-law/privacy-act/notifiable-data-breaches-scheme
- 3 www2.health.vic.gov.au/hospitals-and-health-services/patient-care/end-of-life-care/advance-care-planning/medical-treatment-planning-and-decisions-act
- 4 www.health.qld.gov.au/system-governance/licences/private-health/regulated-surgical-cosmetic-procedures/legislation-changes



MIGA recently joined the Australian Red Cross Blood Service 'Red25' Program and we need your help in achieving the Red Cross Blood Service's goal of getting 25% of Australians to donate blood.

Currently only 3% of the population donates blood, yet 30% of us are likely to need blood in our lifetime!

It's quick and easy to join our Red25 group at:
www.donateblood.com.au/red25/join-red25-group.
Simply enter the group name 'MIGA'.

Together we can support the fantastic work of the Australian Red Cross Blood Service and help save our fellow Australians.



Case Study

Think before 'signing your life away'



Key issue

Employment agreements often contain clauses which can create problems for practitioners.

Key takeaway

It is important to carefully review and consider the implications of clauses in a contract before you sign it, or seek professional advice. We discuss some common employment contract clauses below.

Kate Hodgkinson

Solicitor – Claims & Legal Services

Often as a practitioner plans their next career move, they realise the restrictions imposed by an existing Employment Agreement. The importance of reading, understanding and negotiating acceptable terms of an Agreement before signing cannot be overstated. Once the Agreement is signed, it is very likely to be binding.

A member recently requested our assistance after a breakdown in the relationship with their employer. They had resigned and wanted to move immediately to a nearby practice to continue treating their current patients.

Unfortunately, the Employment Agreement they had signed 3 years prior prevented this. The Agreement required 4 weeks' written notice of termination and provided that, upon termination, they could not work within a 5 kilometre radius of the practice for 1 year and could not treat existing patients of the practice. This prevented the member from pursuing the position they wanted, and meant they had to move to a practice away from the area and "their" existing patients. The member conceded not having read or sought advice about the Agreement before signing.

Restraint of trade clauses

Restraint of trade clauses are used to protect a genuine business interest. Such a clause usually prohibits the practitioner from working in a particular geographical area for a specific period of time after the Agreement is terminated. It can also prohibit the practitioner from "taking" patients or employees of the practice when they go.

The laws governing restraint of trade clauses vary between states, however they will only be

enforced to the extent that they are reasonable. The Courts have upheld restraint of trade clauses and each case is determined based on its unique facts. In the case *Dr Angel-Honnibal v Idameneo (No 123) Pty Ltd*,¹ the Court upheld a restraint of trade clause preventing the doctor from practising within an 8 kilometre radius of her former practice for a period of 5 years. The doctor was required to pay approximately \$58,000 in damages.

Our recommendation

Before signing an Agreement, check the restraint of trade clause. Consider whether you are likely to want to stay in the area once the Agreement comes to an end and, if so, consider whether the proposed clause might limit your options. If you think it could, you should negotiate this term before signing the Agreement. For example, you may be comfortable agreeing to a 1 kilometre restriction for 3 years, but not a 5 kilometre restriction for 1 year.

Indemnity clause

Be wary of indemnity clauses which require you to indemnify another party. We sometimes see agreements which attempt to extend the practitioner's liability to include liability arising from acts and omissions of the other party, or their employees. These contractually assumed liabilities will not necessarily be covered by your MIGA policy and could leave you personally exposed.

Our recommendation

Ordinarily, you are liable for your own acts and omissions, not those of another entity. You should carefully review any indemnity clause and contact MIGA if you are in any doubt as to whether your insurance with us will cover your liability under the clause.

Termination clause

Termination clauses govern the way in which an Agreement can be ended, including whether written notice is required, length of any notice period and under what circumstances the other party can end the Agreement. Often Agreements are drafted to give the health company or employer broader powers to terminate the Agreement than the practitioner.

Our recommendation

If you are signing a fixed term Agreement, it is particularly important to pay attention to the termination clause to ensure it is reasonable and that there is a way for you to end the Agreement if you need to before the term is complete.

The Agreement provided to you is a starting point and should be open to negotiation. It needs to work for both you and your employer. Once signed, it is binding and it could leave you in a disadvantaged position if it is not read, understood and negotiated appropriately upfront.

If you have concerns about certain clauses in your employment contract, please contact us. We may be able to provide you with preliminary advice or refer you to someone who can assist you on a private basis. Where an issue arises concerning your employment, and your policy with us provides cover, please contact us early so we can advise and assist you in managing the situation.

¹ [2003] NSWCA 263.





Case Study

Tribunal reprimands practitioner for fraudulent self-prescribing



Key issue

Self-prescribing and prescribing for family and friends can be a particularly difficult issue to deal with.

Key takeaway

While the legality of self-prescribing varies under State and Territory legislation, the Medical Board's Code of Practice – 'Good Medical Practice' cautions against it. We encourage you to call us for confidential advice should you be uncertain.

Belinda Cullinan

Solicitor – Claims & Legal Services

Self-prescribing and prescribing for friends and family is something that many practitioners grapple with. Having the medical knowledge and the ability make this easy, but there are many pitfalls and with unfortunate regularity it becomes a 'slippery slope'. The Medical Board's Code of Conduct has something to say about this practice.

Case Study

In *Medical Board of Australia v GMZ* [2017] VCAT 902, a Victorian practitioner was found to have self-administered schedule 4 drugs over a 6 year period that had not been prescribed to him by a treating practitioner. It was alleged that the practitioner made false representations to obtain the drugs and forged prescriptions on a relative's prescription pad on numerous occasions between 2009 and 2015.

Concurrent to the Medical Board's investigation, the practitioner pleaded guilty to numerous criminal charges under the Drugs Poisons and Controlled Substances Act. No conviction was recorded and the practitioner was placed on a two year good behaviour bond.

The matter came before the Victorian Civil and Administrative Tribunal in June 2017 to make findings as to the practitioner's conduct and to determine the appropriate sanction. On the practitioner's application, the Tribunal made an order to suppress the practitioner's name on the basis that its publication would be detrimental to his rehabilitation.

The Tribunal noted that it was rare for a suppression order to be made in disciplinary matters because the educative and deterrent function of the proceedings requires publication of the decision to demonstrate to the public and profession that certain conduct will not be tolerated. However, in granting the suppression

order, the Tribunal took into account the opinion of the practitioner's treating psychiatrist and the fact that his conduct had not directly affected the care or treatment of a patient. The Tribunal accepted the practitioner had made remarkable inroads into recovery and rehabilitation from what had been a longstanding addiction and that it would be unfortunate to displace the practitioner from this trajectory at that point in time.

The Tribunal found that the practitioner had engaged in two counts of professional misconduct and one count of unprofessional conduct over the 6 year period in question. It found the practitioner's conduct extremely serious and that it represented a very significant departure from acceptable standards. The practitioner did not dispute this.

In deciding the appropriate sanction, the Tribunal took into account that the practitioner:

- cooperated fully with the Board
- complied with the conditions imposed on his registration
- worked successfully as a GP registrar in accordance with the conditions on his registration
- successfully participated in the clinical training required for him to become a general practitioner
- remained drug free since 2015, having submitted to monthly drug tests
- demonstrated insight which is an important factor in assessing whether an individual poses a continuing risk
- expressed shame and remorse in relation to his conduct, and
- had positive support from professional colleagues and had taken significant measures to address his personal issues in addition to becoming drug free.

Taking into account the above factors and the need to balance protecting the public against

the doctor's endeavours to rehabilitate himself, the Tribunal elected to reprimand the practitioner and impose onerous and prescriptive conditions as opposed to enforcing a suspension or cancellation of his registration.

The conditions required the practitioner to:

- continue supervision and drug-screening
- work with a supervisor
- only take substances prescribed, approved or administered by a nominated treating practitioner
- attend for treatment with a general practitioner and addiction specialist as determined by the treating practitioner
- not undertake night shifts or on-call work in excess of 40 hours per week until the Board approves, and
- not prescribe or administer schedule 4 or 8 drugs except within his clinical role.

In this matter, the Tribunal took into account the efforts made by the practitioner to address the underlying reason for misconduct as well as the mitigating effect of cooperating with the Board.

The law

The legality of a health practitioner self-prescribing varies under State and Territory legislation across Australia. For example, in Victoria, it is an offence for a doctor to prescribe schedule 4 and 8 medicines for themselves or a third party. In South Australia, a doctor cannot self-prescribe Schedule 8 medication unless in a "verifiable emergency". In other States, while it might not be illegal to self-prescribe, the Medical Board's Code of Practice – 'Good Medical Practice' cautions against prescribing for self, family and friends or those 'you work with'. It recommends 'seeking independent, objective advice when you need medical care, and being aware of the risks of self-diagnosis and self-treatment'.¹

Lessons learned

This decision highlights a number of key items:

- the importance of having a general practitioner of your own and making your health a priority
- in the event of a complaint, seek advice and have insight – we regularly receive queries concerning legal and ethical issues around prescribing for self, family and colleagues as well as mandatory reporting obligations in this context and we are very happy to provide advice on these matters
- if you are feeling vulnerable seek advice and help – there are a number of Doctors' Health Services operating around Australia which have been set up to assist you and, their contact details are available on our website²
- Also available on our website are information about MIGA's Doctor's Health Assessment, providing Risk Management Points for undergoing a comprehensive health assessment, and our Doctors' Health e-Book, exploring key issues around the why and how of managing your own health.³

If you are uncertain about your prescribing and reporting obligations, our expert Claims and Legal Services team can provide you with confidential advice and we encourage you to call us.

¹ www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx

² www.miga.com.au/education/doctors-health

³ www.miga.com.au/education/doctors-health

Rising to the challenge of a New Year Business Education for you

As the New Year commences it is inevitable that thoughts turn to plans for the year ahead.

How will it be different from last year? What do you want to change and how will you change it? It's the perfect time to review, reflect and make a plan.

But it isn't necessarily that easy. Sometimes we need some help – a framework, some challenging questions or an alternate perspective that launches thoughts of new ideas and possibilities for our future.

Opportunity knocks! The MIGA Plus Business Education Course information for 2018 is now available! Offered through our partnership with The Private Practice, we hope the courses outlined for the coming year will inspire you to commit to some personal education that helps you achieve your dreams. Tailored to medical practices, the courses encourage you to review your practice operations and help you plan and implement strategies that can drive future growth and efficiency, no matter the stage of your professional life.

The best part is that as an MIGA member you can access these courses at the **special discounted fee of only \$330**. A huge saving of up to \$1,815! Simply use the 'MIGAPLUS' promo code when booking.

Will 2018 mark a turning point for you and your practice?

To make a booking – simply visit the MIGA Plus page on our website and follow the links. We hope your 2018 gets off to a flying start!



Privacy and genetic information Guidelines for private sector health practitioners

Case study

A patient was referred to a gastroenterologist. His father had a familial form of colorectal cancer, familial adenomatous polyposis, and had died when the patient was 12 years old. The patient had been found to carry a mutation in the APC gene. The patient had already been given an explanation of the need to monitor people with this mutation and of the risks involved. This explanation was reinforced by the gastroenterologist, with discussion covering the importance of sharing the information with genetic relatives and the potential for disclosure to take place without consent in certain circumstances. The patient refused to make contact with his estranged wife and their three sons.

When the specialist suggested that she could contact them on his behalf, he said it was not his problem, that he did not know where they were and that he did not want them to be contacted. However, the specialist realised that one of the sons (aged 13 years) had recently been referred to her complaining of abdominal pain. The gastroenterologist discussed the case with a senior colleague and also consulted a clinical geneticist.

The *NHMRC Guidelines for Health Practitioners in the Private Sector for the Use and Disclosure of Genetic Information to a Patient's Genetic Relatives under section 95AA of the Privacy Act 1988 (Cth)* provides scenarios such as this one to assist medical practitioners when issues of consent arise in relation to genetic information.

The Guidelines

The Guidelines should be read in conjunction with the full explanation but in summary:

- 1 Use or disclosure of genetic information without consent may proceed only when the authorising medical practitioner has a reasonable belief that this is necessary to lessen or prevent a serious threat to the life, health or safety of a genetic relative.
- 2 Specific ethical considerations must be taken into account when making a decision about whether or not to use or disclose genetic information without consent.
- 3 Reasonable steps must be taken to obtain the consent of the patient or his or her authorised representative to use or disclose genetic information.
- 4 The authorising medical practitioner should have a significant role in the care of the patient and sufficient knowledge of the patient's condition and its genetic basis to take responsibility for decision making.
- 5 Prior to any decision concerning use or disclosure, the authorising medical practitioner must discuss the case with other health practitioners with appropriate expertise to assess fully the specific situation.
- 6 Where practicable, the identity of the patient should not be apparent or readily ascertainable in the course of inter-professional communication.
- 7 Disclosure to genetic relatives should be limited to genetic information that is necessary for communicating the increased risk and should avoid identifying the patient or conveying that there was no consent for the disclosure.
- 8 Disclosure of genetic information without consent should generally be limited to relatives no further removed than third degree relatives.
- 9 All stages of the process must be fully documented, including how the decision to use or disclose without consent was made.

These Guidelines apply to organisations that have obtained genetic information in the course of providing health services to individuals (including, for example, medical specialists and general practitioners in private practice).

Seek advice

The Guidelines are an essential tool for assisting with decision making and the process for use and disclosure. However, as disclosure without consent represents a significant departure from normal practice and is only permissible in certain circumstances, it is recommended that members call MIGA to discuss the circumstances with one of our solicitors in the Claims and Legal Services team before authorising disclosure.

Risk management tips

The Guidelines recommend the following key points for good practice:

- Seek advice on the nature of the threat to **genetic relatives** and on the necessity for disclosure without consent from colleagues and relevant experts and/or committees. Document the outcomes of these discussions
- Refer the patient to another medical practitioner with the appropriate expertise or consult colleagues and outside experts if not an expert in the field yourself
- Organise discussion of the case so that all involved have time to prepare and document the outcomes of these discussions, and
- Identify another medical practitioner who is able to fulfil the role if you are unwilling to undertake the role of **authorising medical practitioner**.

Liz Fitzgerald

National Manager - Risk Services

Resources

- 1 MIGA resource: www.miga.com.au/education/resources/Privacy-and-confidentiality/Privacy-and-Genetic-Information
- 2 NHMRC Guidelines: www.nhmrc.gov.au/_files_nhmrc/file/publications/guidelines_under_s95aa_use_of_genetic_information_2014.pdf

Support for doctors in training MIGA Grant recipients announced

Through the MIGA Doctors in Training (DIT) Grants Program we are proud to provide annual funding to assist doctors pursuing specialist training opportunities both in Australia and overseas.

Last year the Program celebrated its 10th anniversary, and once again generated immense interest from dedicated doctors across the country. The wide variety of applications received has enabled MIGA to continue supporting training across a broad range of areas in medicine.

We sincerely congratulate the four recipients for 2017 who each receive \$5,000 to assist in meeting the costs associated with their training program:



Dr Natasha Pritchard
Obstetrics & Gynaecology

Location University of Melbourne, Melbourne, Australia

Grant PhD in Translational Obstetrics

Dr Pritchard's PhD in Translational Obstetrics aims to develop targeted nanoparticle therapies for preeclampsia. Preeclampsia is one of the most serious conditions of pregnancy, and such therapies could enable targeted drug treatment to the placenta only, maximising efficacy while minimising side effects to mother and baby.



Dr Lindsay McGrath
Ocular Oncology & Oculoplastics

Location Royal Hallamshire Hospital, South Yorkshire, England

Grant Fellowship in Ocular Oncology and Oculoplastics

This position will provide Dr McGrath with extensive experience in all aspects of ophthalmic oncology, including diagnosing and managing adult intraocular, ocular surface, periocular and orbital tumours. In addition to working with highly specialised Consultant Ophthalmologists, she will actively participate in clinical and science research and be involved in teaching and governance activities.



Dr Sam Brophy-Williams
Paediatrics

Location Hospital Nacional Guido Valadares, Dili, Timor-Leste

Grant Paediatric Training Program

Dr Brophy-Williams will spend time between a teaching position and clinical work via the on-call paediatrician roster. In addition to learning more about tropical diseases and limited resource management, the placement presents an opportunity to enhance skills in teaching, supervision, curriculum development and clinical leadership.



Dr Janani Thillainadesan
Geriatric Medicine

Location University of Sydney, Sydney, Australia

Grant PhD – Achieving better outcomes in older surgical patients under the care of surgical teams

Dr Thillainadesan's PhD aims to determine the characteristics of hospitalised older non-orthopaedic surgical patients, and identify clinical factors and novel markers of ageing that predict outcomes. The project hopes to build understanding of the older surgical patient and provide insights in improved provision of care for this group.

The opportunity to contribute to the training of these doctors is truly exciting, as are the potential future flow on benefits to the community and the profession arising from their newly acquired skills.

We wish the recipients good luck in their respective training programs, and look forward to bringing you details of their experiences through future Bulletins and through the DIT Grants Program page of our website.

Stephanie Calder
Senior Marketing Specialist

Is complacency putting your practice at risk?

In Australia, the risk of medical practices not being insured, being underinsured or not having the correct cover to meet their needs is something we see all too often. This can have an impact on the practice and its staff and serious financial consequences for practice owners. Having the right protection in place makes all the difference when the unexpected occurs.

Unfortunately, the adequacy of the practice's cover often only comes into focus when an incident has actually occurred and this is when the policy cover will be scrutinised. Unfortunately, it's already too late if the practice isn't covered or the cover is simply inadequate. This is both unfortunate and unnecessary given the nature of medical practice, where the 'unexpected' shouldn't be too 'unexpected'.

Understanding the nature of cover, retroactive cover and any excess or limits that apply is very important for any business and especially those providing medical services.

For example, ask yourself these questions:

Do I have cover for an auto reinstatement of the policy limit under my policy? What is that limit?

Some insurers deal with this differently. You might think you have a \$2,000,000 limit of cover but, in fact, you have a \$1,000,000 limit plus a \$1,000,000 reinstatement, which could put the practice or its owners at financial risk and liable for meeting the shortfall if a claim exceeded the \$1,000,000 cover limit.

It's important you check your policy so you are clear about how much your insurer is liable to pay and under what circumstances.

An area of cover which is often misunderstood is exactly what retroactive cover applies. 'Claims made' insurance covers the practice for claims made during the policy period arising from incidents or circumstances that occurred after the retroactive date. Given the nature of medical practices and how ownership may change over time, often several times, understanding the practice's retroactive risk and ensuring it is adequately covered is critical.

At MIGA we pride ourselves on the quality of advice we provide. When you insure with us, you can expect we will ask you lots of questions so that we can fully understand your situation, provide relevant advice and ensure the cover we provide will meet your needs. We have a market leading product which is reviewed and updated regularly to capture claims and market trends so our clients can practice with confidence. We strive to ensure that the cover we offer is clear and unambiguous so you understand the cover you are purchasing.

If you are unsure whether or not your medical business needs its own medical indemnity insurance cover, below is a simple checklist that may help. If any of the statements below are 'true' for your practice, it is likely your business needs its own cover:

Does your practice:

- Provide health care treatment, advice or services via a trust, partnership or practice company?
- Employ or contract health care professionals, including doctors?
- Employ administrative staff to support the doctors and other professionals working in the business?
- Employ staff, including doctors, who are insured by different insurers?
- Provide health care services via other companies or from more than one location?
- Engage locums and other temporary staff?
- Provide services to doctors and other health care professionals for a fee?
- Lease its facilities to other health care professionals?
- Own or lease machinery and/or medical equipment to provide the services (e.g. diagnostic equipment)?

Ensure your practice is appropriately covered.

We encourage you to contact us so that we can help to review your practice's insurance needs, or your current insurance arrangements if currently covered, at no cost. Personal insurance advice is only a phone call away.

Maurie Corsini
National Manager - Underwriting

New Code of Ethics for midwives

An International Code of Ethics will be adopted for Australian midwives from 1 March 2018.

The Nursing and Midwifery Board of Australia (NMBA), Australian College of Midwives (ACM), Australian College of Nursing (ACN) and Australian Nursing and Midwifery Federation (ANMF) have agreed to jointly adopt the International Council of Nurses Code of ethics for nurses (ICN Ethics) and the International Confederation of Midwives Code of ethics for midwives (ICM Ethics) as the guiding documents for ethical decision-making for nurses and midwives in Australia¹.

The International Confederation of Midwives, Code of Ethics, addresses the midwife's ethical mandate in keeping with the Mission, the International definition of the Midwife and the ICM's standards to promote the health and well-being of women and newborns within their families and communities².

The Mission of the ICM is to strengthen Midwives Associations and to advance the profession of midwifery globally by promoting autonomous midwives as the most appropriate caregivers for childbearing women and in keeping birth normal, in order to enhance the reproductive health of women, their newborns and their families.

In summary the Code addresses:

- Midwifery Relationships
- Practice of Midwifery
- The Professional Responsibilities of Midwives, and
- Advancement of Midwifery Knowledge and Practice.

The impact of the introduction of the new Code is that it will be admissible as evidence in any Nursing and Midwifery Board regulatory or disciplinary proceedings as to what constitutes acceptable professional standards.

We recommend that you familiarise yourself with the ICM Ethics prior to its introduction in March 2018.

Liz Fitzgerald

National Manager – Risk Services

- 1 <http://www.nursingmidwiferyboard.gov.au/News/2017-12-04-change-to-ethical-decision-making.aspx>
- 2 <https://internationalmidwives.org/who-we-are/vision-mission/>

Always the first choice for your Medical Indemnity Insurance and protection



miga
ALWAYS

Australia Day Awards

We would like to extend our congratulations to the following members on their receipt of Australia Day Honours:

Officer of the Order of Australia (AO) in the General Division

Professor Ronald Mitchell

Citation For distinguished service to ophthalmology as a clinician, particularly in the management of age-related macular degeneration, through research into public health and ophthalmic epidemiology, and as an educator.

Professor John Turnidge

Citation For distinguished service to medicine as an infectious disease physician and microbiologist, particularly to the advancement of health policy in the area of antimicrobial resistance, and to professional medical organisations.

Member of the Order of Australia (AM) in the General Division

Associate Professor Christopher Ashton

Citation For service to medicine, and to medical education.

Medal of the Order of Australia (OAM) in the General Division

Dr Andrew Luck

Citation For service to medicine in the field of colorectal surgery.

Public Service Medal (PSM)

Professor Maria Crotty

Citation For outstanding public service in the rehabilitation sector in South Australia.

Dr Raluca Tudor

Citation For outstanding public service to the mental health of older persons in South Australia.

National General Enquiries and Client Service

Free Call 1800 777 156
Facsimile 1800 839 284

National Claims and Legal Services

(Office hrs and 24hr emergency legal support)

Free Call 1800 839 280
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Letters to the Editor

We encourage clients to contact us with their views by email to mandy.anderson@miga.com.au or follow the links on our website at miga.com.au.

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