Bulletin

More than just an insurer
Serving and supporting you

Your choice of medical indemnity insurer is an important one. At MIGA we are committed to always being there for you when you need it most.

Our insurance policy cover is one of the most comprehensive in Australia and we also offer value for money, personal support and high quality service.

When you insure with MIGA, you receive a lot more than insurance and you deal with an organisation that approaches its business and service provision from a different perspective than a commercial insurer.

As a 'mutual' organisation we operate on the basis of a very different set of guiding principles. The benefits of insuring with MIGA and being part of a mutual are:

Member owned
As a mutual organisation we are owned and run by our doctor members for the benefit of members. This frames our decision-making which puts people before profit.

Not for profit
Surpluses are directed to maintaining our financial strength and security, offering affordable insurance and delivering additional services to support your practise.

Supporting members and the profession
We provide an extensive range of support services to our clients including expert medico-legal advice, advocacy on issues impacting the profession, risk management education and advice, information and programs supporting Doctors' Health and access to professional clinical support for members involved in a claim.

Focused on service
Always captures our commitment to reliability, professionalism and being available to you when you need us. Every time, every day, no matter what, we are here for you.

MIGA has been protecting doctors for over 118 years and we are passionate about supporting and helping our members and policy holders.

Our commitment to our members and policyholders is to provide the highest level of professional support, financial security, expert advice and quality service

We are 'Always on your side'.

Mandy Anderson
CEO and Managing Director

April 2018

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Welcome to the April Bulletin and the start of a new Risk Management Program year!

We have some really exciting developments in store for you this year with a new education platform currently under development.

Due to launch in July 2018, be on the lookout for a more dynamic, self-paced learning experience.

See the information later in this Bulletin.

Kerry-Ann Klop
Risk Management Event Coordinator

Win a share of *10 million* Qantas Points![1, 2]

Simply opt-in to pay your MIGA renewal premium by direct debit by 30 June 2018 and you'll automatically go in the draw to win! It's that easy!

20 prizes of 500,000 Qantas points to be won!

2018 Member Loyalty Benefit

Exciting news! If you are eligible, your next renewal will include details of a **2018 Member Loyalty Benefit**[4], a reward we're pleased to provide eligible clients as thanks for their ongoing trust and support of MIGA. Check your renewal information for details – coming May 2018!

1 A business must be a Qantas Business Rewards Member and an individual must be a Qantas Frequent Flyer Member to earn Qantas Points with MIGA. Qantas Points are offered under the MIGA Terms and Conditions (www.miga.com.au/qantas-tc). Qantas Business Rewards Members and Qantas Frequent Flyer Members will earn 1 Qantas Point for every eligible $1 spent (GST exclusive) on payments to MIGA for Eligible Products. Eligible Products are Insurance for Doctors: Medical Indemnity Insurance Policy, Eligible Midwives in Private Practice: Professional Indemnity Insurance Policy, Healthcare Companies: Professional Indemnity Insurance Policy. Eligible spend with MIGA is calculated on the total of the base premium and membership fee (where applicable) and after any government rebate, subsidies and risk management discount, excluding charges such as GST, Stamp Duty and ROCS. Qantas Points will be credited to the relevant Qantas account after receipt of payment for an Eligible Product and in any event within 30 days of payment by You. Any claims in relation to Qantas Points under this offer must be made directly to MIGA by calling National Free Call 1800 777 156 or emailing clientservices@miga.com.au.

2 The promoter is Medical Insurance Australia Pty Ltd (ABN 99 092 709 629) of Level 14, 70 Franklin Street, Adelaide SA 5000. Entry only available to doctors and midwives registered in Australia who renew with MIGA from 1 July 2018 by opting into direct debit on or before 30 June 2018 and paying at least one instalment by 24 July 2018. Each of the 20 winners receive 500,000 Qantas Points. The maximum notional value of each Prize is AU$14,852 with a total prize pool of AU$297,040 based on a sample of the Qantas Frequent Flyer Rewards that could be obtained by redeeming through the Qantas Frequent Flyer program. The draw will take place at 10am (CDT) on 21 August 2018 at this address. Each winner will be notified by email. Winners will be published in 'The Australian' on 31 August 2018. Authorised under NSW Permit No. LTPS/18/23732, ACT Permit No. TP 18/00581, SA Licence No. T18/507. Ts & Cs available at www.miga.com.au/qantas-10mpoints.

3 Eligibility criteria apply.

Criminalising healthcare
Would Dr Bawa-Garba's case happen here?

The well-publicised case of Dr Bawa-Garba, has caused considerable disquiet.[1] The paediatric registrar was convicted by a UK jury, of gross negligence manslaughter, and received a two year suspended sentence following a child's death.

The key question in many minds is whether the same outcome could happen here in Australia?

Like any other person, a health professional may face criminal charges for an act or omission that is deemed to have been deliberate or reckless and caused harm.

Doctors may face criminal charges arising from their clinical judgement and the care they provide if it is considered to be "*grossly negligent*". Gross negligence can be interpreted as care that falls short of a reasonable standard and involves a high risk of death or other harm.[2]

Dr Bawa-Garba had recently returned from 14 months maternity leave. During her first shift in an acute setting, following her return to work, she was required to cover the emergency department, a child assessment unit and a ward.

Her assessment and diagnosis of the child was that he was likely suffering from gastroenteritis. She initiated appropriate investigations and treatment for that provisional diagnosis. However, the child was suffering from pneumonia, which led to septic shock and tragically, his death.

Despite the circumstances of the work environment and the fact that Dr Bawa-Garba had an "unblemished record", she was found guilty of gross negligence in her failure to diagnose and treat the pneumonia.

A paediatric intensivist considered:

- the boy's treatment was initially appropriate in part
- the misdiagnosis did not initially amount to negligence
- there was clear evidence from later blood results that he was in shock, which any competent junior doctor would realise
- proper diagnosis and treatment would have prevented his death.

According to a senior Australian paediatrician:

[This] tragedy was caused by a system that was clearly not fit for purpose… It's got inadequate supervision, ridiculous workload, haphazard work environment, a vulnerable child and a severe illness. This is a perfect storm… It certainly happens here. It happens here around twice a week…[3]

MIGA's stance is that criminal law should rarely intervene in the provision of healthcare. Any intervention should be restricted to extreme or exceptional cases, usually involving intentional or reckless conduct.

Investigation of incidents, root cause analyses and coronial investigations provide opportunities for improvement. The Medical Board of Australia protects the public by taking necessary action against doctors where there are concerns about fitness to practice.[4] Injuries and other harms are remediated via civil damages claims. Absent exceptional circumstances, these mechanisms deal appropriately with errors and harms in healthcare without need for the application of criminal law.

The UK response to Dr Bawa-Garba's situation has been swift. A crowdfunding campaign is raising money to explore options to quash Dr Bawa-Garba's conviction. The UK Government has announced a review into the use of gross negligence manslaughter charges in healthcare. Recently, Dr Bawa-Garba was granted leave by the UK High Court to appeal against the General Medical Council's decision to strike her off; see www.bbc.com/news/health-43610949[5]

Importantly, cases of criminal charges against Australian doctors involving their clinical judgment are rare, and convictions even rarer. It is difficult to identify a case similar to that of Dr Bawa-Garba having occurred in Australia.

Although the chances of a similar case occurring in Australia are probably remote, MIGA acknowledges the potential for the unnecessary use of criminal law in healthcare. We advocate that doctors who act in good faith should not face criminal sanction. Recent examples where we have expressed this view include:

- seeking preclusions against the use of open disclosure and apologies made by a doctor as evidence against a doctor[6];
- arguing for protections for doctors in cases of inadvertent or unknowing breaches of consent and medication prescription requirements;
- clarification of laws around withdrawal or withholding treatment in end of life care; and
- advocating against regimes which could allow genuine mistakes to be criminalised.

Timothy Bowen
Senior Solicitor – Advocacy, Claims & Education

1 The England and Wales Court of Appeal decision, *Bawa-Garba v R [*2016] EWCA Crim 1841, dismissing Dr Bawa-Garba's appeal against conviction, is available at www.bailii.org/ew/cases/EWCA/Crim/2016/1841.html. The conviction also led to her removal from the medical register - *General Medical Council v Bawa-Garba* [2018] EWHC 76 (Admin) – available at www.bailii.org/ew/cases/EWHC/Admin/2018/76.html
2 *R v Reeves* (unreported, District Court of NSW, 16 June 2017), p8
3 Dr Andrew McDonald, ABC Radio National Health Report interview 12 February 2018, available at www.abc.net.au/radionational/programs/healthreport/dr-bawa-garba-outcry-over-doctor-struck-off-medical-register/9421624
4 In NSW, this role is exercised by the Medical Council of NSW and the Health Care Complaints Commission, and in Queensland by the Medical Board of Australia and the Health Ombudsman
5 BBC News (2018) Hadiza Bawa-Garba: Doctor wins right to appeal after boy's death [Online]. Available from http://www.bbc.com/news/health-43610949
6 Although there were initial questions about whether Dr Bawa-Garba's 'e-portfolio' reflective learning about the case was something the jury considered, the UK Medical Protection Society has confirmed it was not used in the criminal trial - www.medicalprotection.org/uk/about-mps/media-centre/press-releases/press-releases/e-portfolios-remain-an-important-part-of-a-doctor-s-professional-development

Case Study

The 'Dark Mark' of IV iron infusions

Key issue
Skin staining from IV iron infusions can be unsightly and permanent.

Key takeaway
When providing this type of treatment it is important to provide patients with sufficient information prior to proceeding with treatment to ensure you can obtain informed consent.

Carmelina Parisi
Solicitor – Claims & Legal Services

In recent times there has been an influx of notifications relating to skin staining caused by intravenous iron infusions. It is common for these infusions to be performed by GPs and practice nurses in the general practice setting. Staining to the skin may occur when the compound leaks outside the vein and into the surrounding soft tissues. This can sometimes occur despite the best practice insertion of the IV cannula and administration of the iron infusion. The leaking is not harmful, but the skin staining can be significant, look quite unpleasant and be permanent. Whilst not a common occurrence, skin staining is a known risk of IV iron infusions.

A GP recently notified an incident to MIGA. He had a patient who was iron deficient and a decision was made to perform an IV iron infusion. The GP carefully inserted the cannula into the patient's arm. She immediately complained of pain so he removed the cannula and made a decision to try the patient's other arm. Again, he inserted the cannula and the patient complained of pain, so he immediately removed it. A decision was made by both the GP and the patient not to proceed with the treatment given the difficulties encountered.

Later the same day the patient reported discomfort and swelling on both arms at the sites of the cannula insertion. She also reported bruising on both arms. When the patient was followed up the following day she reported that her skin looked discoloured, rather than bruised. The GP immediately contacted MIGA for advice. He was concerned that the patient may have sustained skin staining as a result of the failed iron infusions. MIGA advised the GP to arrange an urgent review of the patient to establish whether her arms were bruised or whether in fact she had sustained skin staining. We advised the GP to be frank with the patient and to explain the risks of skin staining from IV iron infusions, the cause of it and the likely outcome, namely permanent staining of the skin. We suggested he provide the patient with advice regarding the treatment options available to her in the event that she had sustained skin staining.

Following the review, the GP advised MIGA that the patient had sustained skin staining to both arms at the site of the cannula insertion. He had engaged in a frank discussion with her and discussed the option of laser to treat the staining.

Unfortunately, in spite of the proactive post-procedure management by the GP, the patient went on to lodge a formal complaint with a health complaints commission. She claimed the cost of the laser treatment as well as various other out of pocket expenses. MIGA was able to provide the GP with support and advice and worked with the complaints body to resolve the claim in a timely fashion.

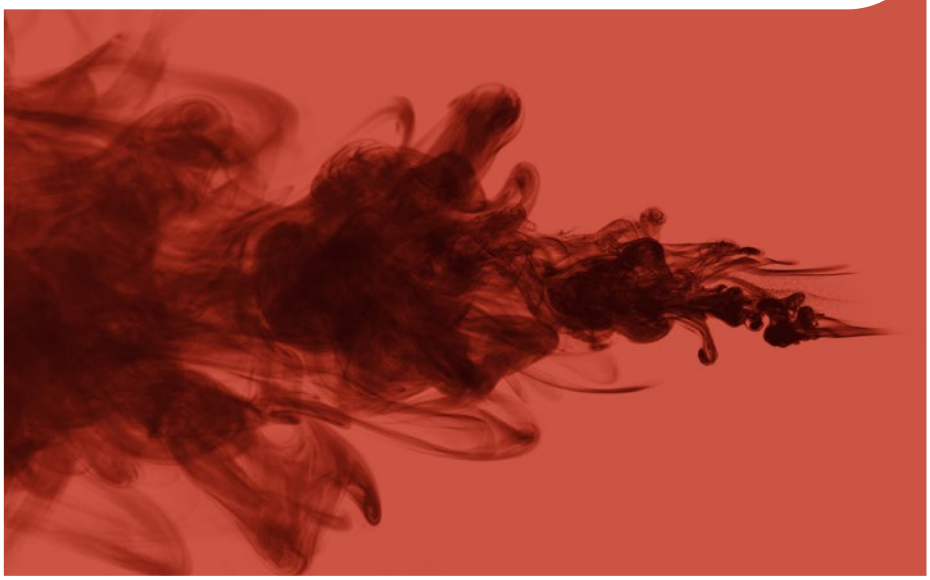
With the benefit of hindsight, the GP could see he had made errors - he failed to warn the patient of the risks associated with IV iron infusions, including skin staining, before administering the treatment (so there was no informed consent). Also, there were difficulties in inserting the cannula. In the circumstances, the GP may have been criticised by his peers for his clinical performance. This placed the GP in a vulnerable position with respect to the claim. The patient alleged that she would not have proceeded with the treatment had she been warned of the risk of skin staining.

The importance of providing patients with sufficient information prior to proceeding with treatment cannot be overstated. Patients will not be in a position to consent to treatment unless they are informed and aware of the associated risks.

MIGA has advice for GPs performing IV iron infusions which includes the following key suggestions:

- Warn patients of the risk of skin staining, which may be permanent;
- Document your discussion;
- Obtain informed consent from patients before commencing the treatment. A signed consent form is ideal and should be placed on the patient's medical record;
- Check the cannula site before commencing the infusion and during the infusion to check for displacement;
- Flush the cannula site with normal saline before and after the infusion;
- Be alert to complaints of pain or any issues identified during the procedure and review whether to continue;
- Staff performing the iron infusions must be appropriately trained; and
- Patients should be asked to report any skin discoloration surrounding the cannula site.

If you suspect that skin staining has occurred as a result of an IV iron infusion, we suggest that you contact the claims and legal services team at MIGA for support and advice.



Case Study

Board imposed 'caution' not a foregone conclusion

Key issue
With the right help, sometimes it is possible to influence the outcome of proposed sanctions.

Key takeaway
It is sometimes possible to dissuade the Medical Board from implementing proposed sanctions by providing further submissions. MIGA is well placed to assist practitioners in situations where submitting further information is appropriate.

Cheryl McDonald
National Manager – Claims & Legal Services

As many members are aware (for all the wrong reasons!), the Australian Health Practitioner Regulation Agency (AHPRA) receives and manages complaints about health practitioners on behalf of the Medical Board of Australia.

Complaints can be made by a range of people or entities; but, in our experience, they are most often made by patients.

Members who have received a letter from AHPRA informing them about a notification will have seen the document called "Regulatory Principles for the National Scheme" which is invariably annexed to the notification. A copy of the document is also available on the Medical Board of Australia website.

A key principle is to protect the health and safety of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered. AHPRA's primary consideration is to protect the public.

In performing its role many complaints become the subject of investigation and are sent to the practitioner requesting a response.

MIGA assists and supports hundreds of members each year with this process. The sanctions available are vast. Fortunately, many complaints are resolved with no further action after AHPRA/the Medical Board have considered the practitioner's response. However, others are also resolved by issuing a Caution and, on occasion, the imposition of Conditions on a medical practitioner's registration with respect to that practitioner's practice.

A Caution is a written warning and is intended to act as a deterrent so that the practitioner does not repeat the conduct or behaviour. A Caution is not usually recorded on the public register of practitioners. If a Caution is proposed, the practitioner is provided with an opportunity to make a submission on why the Caution should not be imposed.

In circumstances where it is proposed that Conditions be imposed, practitioners are also provided with an opportunity to make a submission. Conditions that restrict a practitioner's practice of the profession are published on the public register of practitioners.

In both instances, it can be difficult to dissuade AHPRA/the Medical Board from implementing proposed sanctions.

With this in mind, we share a recent experience where, with the assistance of MIGA's in-house legal team, a submission disputing the need for Conditions on practice was successful.

Dr Smith (GP) was investigated by AHPRA/the Medical Board when her patient, Jenny, developed lithium toxicity. Dr Smith had only been consulting Jenny for 6 months when Jenny developed lithium toxicity, a medication which had been prescribed for a number of years by Jenny's treating psychiatrist.

Dr Smith was advised by Jenny's family that her lithium levels were being monitored by her treating psychiatrist. Dr Smith assumed that Jenny's treating psychiatrist would report back to her regarding Jenny's lithium levels given Jenny's regular review with her psychiatrist. This did not happen.

At first instance the Medical Board proposed to impose Conditions on Dr Smith's registration that she undergo education regarding communication with other treating practitioners and in relation to prescribing medication for mood disorder.

With the assistance of MIGA's team, Dr Smith made a further submission to the Board that the proposed education was unnecessary to protect the public. Dr Smith accepted and acknowledged that as Jenny's GP she was responsible for co-ordinating her care with other health practitioners and that in this instance her failure to follow up with Jenny's treating psychiatrist fell below a standard reasonably expected of a general practitioner and did not accord with *A Good Medical Practice: A Code of Conduct for Doctors in Australia*.

Dr Smith satisfied the Medical Board that she had the requisite knowledge surrounding safe prescribing of lithium by providing evidence of courses that Dr Smith had previously completed and further resources she had revisited and reviewed in light of this incident. Dr Smith also advised the Board of changes she had made to her practice to prevent a communication breakdown (such as the one which occurred with Jenny's psychiatrist) from occurring again.

The Board accepted Dr Smith's submission and ultimately decided to impose a Caution only, determining that imposing Conditions to undergo education was unnecessary.

In the event you become the subject of an AHPRA investigation, give our team a call on 1800 839 280. We are here to help you.

Mandatory reporting by treating practitioners

For some time, MIGA has been advocating for changes to mandatory reporting obligations on treating doctors to ensure that these do not pose an impediment to doctors seeking appropriate care for mental and physical health issues.

Mandatory reporting obligations for treating practitioners arise when:

- **A registered health practitioner is treating another registered health practitioner;**
- **The treating practitioner has a reasonable belief that the practitioner they are caring for has engaged in 'notifiable conduct';**
- **'Notifiable conduct' requiring a mandatory report includes when a practitioner has:**
  - practised while intoxicated by alcohol or drugs;
  - engaged in sexual misconduct in connection with their practice;
  - placed the public at risk of substantial harm in their practice because they have an impairment; or
  - placed the public at risk of harm because they have practised in a way that constitutes a significant departure from accepted professional standards.

Late last year, MIGA was involved in a consultation on proposed changes to mandatory reporting laws. In particular, we supported:

- Removal of these obligations on treating practitioners where it involves issues of impairment;
- Development of clearer guidance on ethical and professional reporting obligations associated with impairment; and
- National consistency in managing individual cases of impairment by the Medical Board/AHPRA.

Issues of impairment represent the majority of mandatory reporting notifications for treating doctors. In our experience, doctors understandably struggle with mandatory reporting obligations, particularly as to what constitutes impairment. We perceive there is considerable fear amongst doctors about seeking care because of perceived risk to their careers.

Various Australian governments are working on an agreed position to be endorsed by health ministers this month. It has been suggested this will involve a narrowing of mandatory reporting obligations on treating practitioners, particularly in relation to impairment.

We will continue to advocate for our members' interests in these areas and will let you know how things progress.

Timothy Bowen
Senior Solicitor – Advocacy, Claims & Education

Doctors' Health gaining traction

Over the last few months, MIGA has been working away on a number of issues related to doctors' health, and we want to let you know about important things which are underway or coming up.

National Doctors' Health Strategy
Late last year, MIGA was part of a National Doctors Health Forum, convened by Doctors' Health Services (DHS) and the Australian Medical Association, focusing on reducing the risk of suicide in the medical profession.

Recently, a report on the forum and a 'call for action' containing a number of possible next steps, has been released and is available at **ama.com.au/article/national-forum-reducing-risk-suicide-medical-profession-final-report**

DHS has committed to:

- Leading the development of a doctors' health consensus statement;
- Developing and distributing education on how to be a 'doctor-patient' and treating medical colleagues;
- Providing advice, support and clearer pathways to assist all doctors to find their own GP;
- Increasing efforts to provide support to colleagues at risk; and
- Developing a communication plan to share key messages from the forum with the profession; and working with key stakeholders such as MIGA to reinforce messages and drive cultural change.

Over the coming months, MIGA will be part of further discussions with DHS and other stakeholders around key actions.

From MIGA's perspective as a medical defence organisation, the following are important issues to work through:

- **Access to appropriate care** including facilitating all doctors and medical students having a GP, and how to identify and respond to illness in self and colleagues;
- **Practice / regulatory issues** how practising in professional isolation can affect health and well-being, accommodating impacts of ageing and the significant negative impacts medico-legal processes can have on mental health; and
- **Workplace / training issues** supporting doctors returning to work, availability of services to support doctors' health, dealing with unacceptable behaviour and supporting supervisors.

MIGA already provides doctors' health education and support to its members, including:

- **Doctor's Health Assessment** which earns doctors Risk Management Points;
- **Practitioners' Support Service** which provides access to confidential peer and professional support when needed;
- **Doctors' Health e-book** addressing active management of your health; and
- **Caring for our colleagues Workshop** as part of our Risk Management Program, dealing with preventative health care and collegiate support.

More information about these initiatives is available at **www.miga.com.au/doctors-health.**

Timothy Bowen
Senior Solicitor – Advocacy, Claims and Education

Anticipating a new arrival
Risk Education Online (REO)

MIGA is preparing for the arrival of a new eLearning platform which will offer risk education via our website in 2018.

REO will replace our current risk education platform which was introduced in 2004.

For the 2018/2019 RM Program which commenced on 1 April 2018, clients can continue to book events in the Client Area until REO arrives but online activities will only be available in REO in late July 2018.

It will be worth the wait! REO will bring new and dynamic ways to learn and interact on a broader choice of topics through a platform that is multiple device friendly (so you can participate on your phone if you wish!). We will provide more information about REO over the coming months via Bulletins and the website.

MIGA continues to lead the way in delivering risk management education to thousands of our clients every year. The benefits of shared knowledge are obvious:

- to the doctors and midwives who seek to optimise the safe delivery of health care;
- to their patients in better outcomes;–and
- to MIGA with reducing exposure to claims and the cost of claims.

The change in the delivery of our risk education does not change our view on rewarding your participation. Nothing has changed. Completion of MIGA's RM Program will continue to earn clients a 10% premium discount in the following year and we encourage our doctors and midwives to participate.

Liz Fitzgerald
National Manager – Risk Management

Board appointment
Mr Ian Stone

MIGA is very pleased to welcome Mr Ian Stone as a member of the Board of Medical Insurance Australia Pty Ltd. Ian was appointed to the Medial Insurance Australia Board in November of last year. Ian has extensive senior management experience and expertise in the motor, home and health insurance industry. He is currently Group Managing Director of RAA Insurance Ltd and a Director of various Australian automotive associated entities. Ian brings a wealth of knowledge and experience and is a valuable and welcome addition to our Board.

Dr Martin Altmann
Chairman - MIGA

Multidisciplinary or multispecialty = multiple risks

Healthcare practices that provide a broad range of medical and other health services may be particularly attractive to patients. This is because they are aimed at delivering a team approach to healthcare across multiple disciplines in one location. These practices may also be more cost effective given the potential reduction in the cost of shared resources.

What does this mean though for the professional risks of the practice? How does the practice ensure that it is appropriately managing its risks? Is the practice confident it is appropriately protected when there are multiple specialties, healthcare professionals and other staff at work?

Doctors may be employed, or they may be engaged as contractors or as locums. What is the practice's responsibility to ensure they are all appropriately covered? What does the practice require in terms of insurance obligations when it engages doctors? How does the practice document this and ensure compliance?

The practice may have similar requirements in relation to other healthcare professionals and other staff that it engages. Some of these may have an entitlement to personal insurance cover via their respective professional associations, however, it may be difficult to obtain clarity on the terms and conditions of these.

The reality for multidisciplinary practices is that their professional risk may be more complex, more difficult to manage and expose the practice to even greater risk because of the range of doctors, other healthcare professionals and staff providing the healthcare services and the range of insurance covers the practice will rely on.

In the event of a claim or complaint, the practice may be at risk if appropriate insurance arrangements are not in place. This can become particularly difficult if the claim is brought against multiple healthcare providers in the practice.

It is extremely important for any practice to ensure it has appropriate insurance in place, and this can be even more important for multidisciplinary practices.

MIGA's Professional Indemnity Insurance for Healthcare Companies is specifically designed to cover healthcare practices irrespective of their complexity. We can advise practices in relation to their specific needs, however unique.

Please contact us on 1800 777 156 if you would like to explore your situation and your needs or if you require a quotation for cover.

Maurie Corsini
National Manager - Underwriting

Notifiable data breach scheme
How it impacts you

From 22 February 2018, privately practising midwives and midwifery practices have new obligations to inform clients and the Office of the Australian Information Commissioner (OAIC) of 'eligible data breaches'.

These obligations are an extension of existing privacy law obligations around collection, use and disclosure of health and other personal information as part of providing care to pregnant women.

What are your obligations?
Private health care providers are required to:
- inform individuals (usually patients) and the OAIC
- about events which involve
  - unauthorised access to information,
  - unauthorised use of information, and
  - loss of information likely to result in unauthorised access or disclosure
- if these events
  - are likely to result in serious harm to affected individuals or
  - cannot be effectively remediated through action to prevent the likely risk of serious harm, and
- make the notification to individuals and OAIC as soon as reasonably practicable.

When could these obligations arise?
Even though the scheme refers to 'data', the obligations are not just for situations involving electronic health records or other e-health information. They can apply to all situations in which health care providers hold and disclose health and other personal information for their clients, including hard copy health records and contact information.

Possible examples of unauthorised access, disclosure or loss which could lead to an obligation to inform clients and the OAIC include:
- Test results being given to the wrong client;
- Inappropriate disclosure of health information to a family member or friend, ie where not permitted under privacy laws or in breach of a Court order;
- Loss of information stored electronically (ie USB) or on paper; and/or
- Inadvertently placing health or other personal information on a publicly accessible website.

Is there anything I can do to reduce the risk of a notifiable data breach?
It may be that certain data breaches are unpreventable, notwithstanding the steps taken to prevent them occurring.

However, there may be steps you could take to minimise the risk of a data breach occurring, which could include:
- Reviewing privacy practices and procedures – are these in place and up-to-date?
- Does everyone in your practice understand their privacy obligations? Is any training required?
- For those working with you, including IT contractors or cloud service providers, do you have agreements dealing with privacy and notifiable data breach obligations?
- Assessing where you or your practice may be at risk of a data breach, and taking remedial or risk reducing action before it occurs;
- Having a notifiable data breach response plan – the OAIC has developed a template, available at www.oaic.gov.au/agencies-and-organisations/guides/guide-to-developing-a-data-breach-response-plan

I think there may have been a data breach – what should I do?
The first thing is to take the necessary steps to contain or fix the breach.

The next step is to assess the breach, what it involves and the risk it may pose to affected individuals.

At this point, we encourage you to contact MIGA claims team for assistance in working through what, if any, reporting requirements need to be considered.

For more information on the data breach scheme and additional resources, you can access MIGA's Factsheet on the Data breach scheme on our website.

Liz Fitzgerald
National Manager – Risk Services