

Bulletin



Sharing your views on MIGA Thank you for your feedback

As a member organisation it is very important to us to understand how you feel about the services we offer and our performance in delivering those services to you. We recently sought member feedback via a survey and were overwhelmed by your response, both in terms of the valuable feedback and the number of members who gave their time to complete the survey.

We were very fortunate to receive 2,099 survey responses with many positive and constructive comments. For most members the delivery of service primarily centres around situations where they need advice or support.

As an insurer and member organisation this is where the 'rubber hits the road' for us. Below we have summarised some of the feedback and information which we think you will find interesting, but importantly:

- Indicate that we are meeting member expectations when it comes to providing that critical advice and support service
- Show that a reasonably large proportion of respondents are making use of those services to receive expert advice which is tailored to medical practice.

Service

There were a significant number of individual comments about how much doctors appreciate and value the service and support offered by MIGA. We were very pleased with the service ratings achieved

below and we also received some excellent feedback about improvements we can make.

Doctors in	Private practice	Hospital
------------	------------------	----------

Would you recommend MIGA to other doctors?

Yes	91.2%	78.3%
-----	-------	-------

How would you rate your contact with MIGA?

Good to excellent	92.1%	92%
-------------------	-------	-----

How satisfied were you with the quality of the advice and support you received?

Very	86.5%	81.9%
------	-------	-------

How do you rate the quality of MIGA's service overall?

Good to excellent	92.3%	79.6%
-------------------	-------	-------

Direct debit

54.7% of doctors who responded used our new Direct Debit facility (launched this year) and 92.0% found it easy to use.

Inside we have summarised more of the survey feedback which we hope you will find interesting.

Thanks again to all of our members who participated in the survey – we really appreciate it.

Mandy Anderson
Chief Executive Officer

December 2016

Member feedback

Delivering advice & support

Case study

Caution! Buck passing

Case study

SMS & email communication

Doctors' Health

Surviving the 'Silly Season'

Back soon...

Preparing your practice for the Christmas holidays



As Christmas fast approaches, there are two risk management articles in this Bulletin that may help you prepare for the holiday period.

We offer a few tips on preparing your practice (and patients) for the holiday season that can set you up for a worry-free break from your practice.

Christmas can also be a busy and stressful time. We can all feel pressured in many different ways and keeping your perspective and maintaining balance in your life can be challenging. We provide some tools and online resources to help you monitor how you are going. It is also important to keep an eye on those around you. Support and a helping hand can go a long way and may be the most meaningful Christmas gift you give.

All of us at MIGA hope you enjoy the festive season and wish you a safe and peaceful New Year.

Our offices will be open on the normal working days during the Christmas break and our 24 hour emergency medico-legal advice service will be available if you need to contact us on public holidays (including Christmas Day) for urgent medico-legal advice.

Keryn Hendrick
Risk Education Manager

Member Feedback

Delivering advice & support

The use of client surveys is a valuable tool for us to measure and benchmark many aspects of our service. The survey is also a means for you to provide us with feedback and comments about your experiences using our various services. The survey enables us to consider your feedback in the context of how we currently deliver service, what is important to you and how this can translate to future improvements.

Advice and support

Our advice services continue to be well used, particularly by doctors in private practice. The summary below highlights the proportion of respondents who have used our services in the last 12 months and shows some contrast in the rate of access between hospital doctors and those in private practice.

In the last 12 months have you:

Doctors in	Private practice	Hospital
Sought advice from MIGA on a general medico-legal matter?		
Yes	40.7%	10.3%
Phoned MIGA's 24/7 emergency advisory line?		
Yes	19.3%	7.6%
Had an inquiry or registration matter where we assisted you?		
Yes	34.8%	11.8%
Had a claim in which MIGA represented you?		
Yes	12.2%	2%
Contacted us with a query or request in relation to your insurance policy?		
Yes	42.1%	20.4%

Social media use

Social media use is much lower amongst doctors in private practice than those working in hospitals. The survey provided excellent information for us to consider in this area in terms of the social media platforms that you use and the types of content you would like to see. This will form part of our future planning.

Doctors in	Private practice	Hospital
Do you engage in Social Media?		
Yes	42.7%	68.8%

The survey was quite long and we had some feedback reminding us of this, but the information provided is so important in helping us improve and guides our thinking across the business. It is truly valuable and we really appreciate your responses and the time you committed in completing the survey.

Throughout the survey many members took the opportunity to provide additional comments in relation to their answers. We are very appreciative of the time members have taken and the consideration they have given to providing these. The statistics arising from the survey are extremely useful, but the comments provide context and insight which inform our decisions about serving you better.

Mandy Anderson
Chief Executive Officer

Doctors' Health

Surviving the 'Silly Season'

The festive season is meant to be a time of joy, but for many people it can be a time of stress, anxiety, disappointment or loneliness. It can come with high expectations of perfect, happy families enjoying luxurious celebrations and gifts, but not everyone can live up to these ideals.

It's really important to take care of yourself and to keep an eye out for others who may be struggling, especially at this time of the year, so we have put together a few tips on strategies for having a safe and happy festive season and a quick checklist to help assess how things are going.

Everything in moderation

Christmas Day has become synonymous with over-indulgence of food and alcohol. Where possible, maintain a good balance of fruit, vegetables, carbohydrates, protein and omega 3 sources.

The celebratory spirit of Christmas and New Year often involves social drinking and, although the consumption of alcohol might make you feel more relaxed, it is important to remember that alcohol is a depressant and drinking excessive amounts can cause low mood and irritability.

Get some rest

Feeling tired can exacerbate stress and anxiety so it's important to get plenty of sleep and take some time out for yourself to give your mind some rest.

Keep moving

Physical activity releases endorphins, which help you to relax, feel happy and boost your mood. By undertaking simple tasks such as cycling to work, walking in the park, or joining in with Christmas games, you can benefit in so many ways.

Look back

Every year has its successes and disappointments – it's a great time to reflect on both, remind yourself of the positive and look for ways to improve on those not-so-good experiences. Consider getting some support or guidance to make the next year the best it can be.

Stay in touch

If you're feeling out of touch with some people, Christmas can be a good opportunity to reconnect with a card, email or phone call. If something is worrying you, just being listened to can help you feel supported and less alone. It works both ways: if you open up, it might encourage others to do the same and get something off their mind.

If you find that things are getting on top of you as the season approaches, there are a number of tools that may assist you. Firstly, consider seeing your GP for support – if you don't have one now is the time. In the meantime see opposite for a few online resources that may be helpful.

Liz Fitzgerald

National Manager – Risk Services

How are you feeling?

Things to watch out for in yourself and others around you

- Experiencing poor or broken sleep
- Feeling easily overwhelmed
- Increased use of drugs or alcohol
- Withdrawing from family and friends
- Problems performing at work
- Declining or avoiding invitations for social engagements
- Feeling more or unreasonably irritable.

Find support

Online resources

How is your mood? - Take the quiz

<https://www.ontrack.org.au/site/quiz/depression/k10>

Beating Christmas stress and anxiety

<http://www.mindhealthconnect.org.au/beating-christmas-stress-and-anxiety>

Doctors' Health Advisory Service

<http://www.doctorportal.com.au/doctorshealth/>

AMSA - Keeping your grass greener

<http://mentalhealth.amsa.org.au/keeping-your-grass-greener/>

Are you ok? JMO Health

<http://www.jmohealth.org.au/>

Taking care of myself at work - Heads-up

<https://www.headsup.org.au/taking-care-of-myself-at-work>





Case Study

'Caution! Buck passing'



Key issue

Referrals are a source of more expert information to support diagnosis and treatment, not a means of passing responsibility.

Key takeaway

Appropriate management of the patient is a team responsibility.

Marie-Claire Elder

Senior Solicitor – Claims & Legal Services

The NSW Civil & Administrative Tribunal has recently made comment on the duty of a general practitioner referring to and working with a specialist¹. The observation provides helpful guidance on the requisite standard expected of a practitioner when referring to a specialist.

The complaints against the doctor alleged unsatisfactory professional conduct and professional misconduct in relation to the prescription of Schedule 8 and Schedule 4D

drugs and the failure to maintain adequate records for multiple patients². The doctor admitted many particulars of the complaints.

During the course of giving evidence however, the doctor said that one of the patients was under the care of a specialist and that the treatment regime (namely the prescription of Diazepam, Methadone and Temazepam) was supported by that specialist³. This evidence was not accepted by the Tribunal. In another instance, the Tribunal found that the doctor failed to follow the advice of a specialist on two occasions⁴.

The doctor's registration was cancelled for a minimum of two years⁵.

In the decision the Tribunal states:

Referral to a specialist goes beyond the administrative task of writing a letter. The appropriate and expected standard involves obtaining the opinion sought, considering the advice and taking appropriate and considered action. In cases of chronic conditions where patients are on medication, constant periodic reassessment of the condition is required. This is to ensure accuracy of diagnoses, status of the condition, including signs and symptoms, and the impact of treatment. Because the personal circumstances of patients may change it is desirable to verify provisional diagnoses, and physical examinations should be undertaken to determine future management strategies⁶.

Although this case centred on a general practitioner, the decision outlines what is expected when a referral to a specialist is made during the course of treatment. It is likely the same standard will apply when referring from specialist to specialist.

Although this may appear to be common sense, at MIGA we frequently see notifications of alleged 'failure to follow up' or 'lost to follow up'. This is not limited to general practitioners and includes the failure to review specialist reports, laboratory and radiological results. Frequently, incorrect assumptions are made about who is managing the patient.

Risk management tips

The case is a reminder for all of our members to:

- Approach your patient's care in a collegial way. Engage with your patient's specialist and review their recommendations regularly
- Seek peer support, whether that be with a practitioner within your own group or a specialist. Ensure any discussions are documented
- A second opinion may be appropriate if you have reached an impasse with your patient. This is particularly important for patients who may be having difficulties with addiction
- Take the time to review previous entries/attendances to ensure results have been followed up. Document this review has taken place
- Don't assume that a colleague is following up or managing for you. Confirm with the patient and other treating doctors who is responsible for various aspects of the patient's care
- Document telephone discussions in the patient record
- Ensure your practice has a thorough follow-up and recall system

For examples of case studies on this subject please see our Risk Resource library. If you need advice on this or any other matter please call our claims and legal team on 1800 839 280.

¹ *Health Care Complaints Commission v Lo* [2016] NSWCATOD 119. A copy of the decision can be found here: <https://www.caselaw.nsw.gov.au/decision/57ce1e5ee4b058596cb9f327>

² Above N1 at 8 and 9

³ Above N1 at 107

⁴ Above N1 at 37

⁵ Above N1 – Orders (1). As per Order (2) the practitioner may not apply for a review of Order (1) for a period of 2 years from the date of the decision

⁶ Above N1 at 163





Case Study

Email and SMS communication in medical practice



Key issue

Use of email and SMS in practices for patient communication is on the rise.

Key takeaway

To ensure appropriate use in your practice you should have a policy in place which ensures consistent use within the practice and facilitates patient consent and manages expectations.

Belinda Cullinan

Solicitor – Claims & Legal Services

We have noticed a surge in queries from our clients about the use of SMS and email for patient communication, in particular recalls and reminders. The trend stems from a number of factors such as patient preference, technological efficiencies and increasing postal costs and delays.

RACGP Guidelines

The Royal Australian College of General Practitioners (RACGP) Standards for General Practice acknowledge that patients are able to obtain advice or information related to their clinical care by telephone or electronic means where the doctor determines that it is **clinically safe** and that a face-to-face consultation is unnecessary.¹

The RACGP's standards provide the following useful guidance for medical practitioners²:

- Obtain and document patient consent before health information is communicated by email or SMS
- Confirm a patient's identification and verify the patient's contact details before any information is sent
- Consider whether it is appropriate to communicate particular information by electronic means or whether other methods would be more suitable (eg for sensitive information such as HIV status or pregnancy results this mode would not be suitable)
- Conduct communications with particular regard to privacy and confidentiality considerations given the higher risk of information inadvertently being seen by another person
- Have a documented process for ensuring that electronic messages from patients are recorded and given to the person for whom they are intended on the day of receipt, or in that person's absence, to the person who is providing cover.

Parameters of use and patient consent

Bearing in mind the above considerations, medical practices should have a policy on the use of electronic communication with patients to ensure consistent use among their staff. The policy should cover:

- how patient consent is obtained and documented
- what checks are made to verify the patient's mobile number/email address is up to date and accurate
- what type of information can be included in an SMS or email
- who is authorised to send/receive and respond to SMS and email
- how electronic messages from patients are dealt with in the recipient's absence
- the process for recording electronic messages in the patient's health records.

Similarly, the practice needs to convey sufficient information about the electronic communication service which is available to obtain the patient's informed consent.

Obtaining the patient's consent could be as simple as including a question in the patient registration form, on-line appointment or registration portal seeking the patient's consent to use SMS for appointment reminders and recalls or it could be a more comprehensive consent form covering various options for electronic communication which needs to be read and signed by the patient.

The best method of obtaining the patient's consent will largely depend on the extent of the service being offered. The key is ensuring that the parameters of the service are clearly communicated to the patient.

Importantly, if a patient does not consent to being contacted by SMS or email then that should be clearly documented to ensure that SMS and email messages are not inadvertently sent.

Factors to consider

- To safeguard against the risk of confidential information being accessed inadvertently or intentionally by a third party, the SMS or email should not divulge sensitive health information (eg a test result) unless the patient has provided **express** consent
- Emails are only safeguarded against unauthorised access if both parties have the appropriate encryption programs on their computer. **Patients must be aware that the practice cannot guarantee confidentiality of information transferred via email**
- With appropriate consent, an SMS or email can be used to effectively communicate:
 - A reminder for a scheduled appointment (time and date)
 - The need for a patient to make an appointment to review a test result
 - A reminder that a generic preventative screening test (flu vaccine, skin check, pap smear) is due
- When recalling a patient for a test result, the extent to which patients are followed up will depend on the level of urgency and the clinical significance of their test results. If the patient has not responded to the SMS or email, then other forms of communication (phone call, registered mail) should be considered
- Email and SMS messages between the practice and the patient form part of the medical record and need to be included. Some electronic health record systems can perform this feature automatically.

If you have any concerns or queries about the use of electronic communication in your practice, please contact one of the solicitors in the Claims & Legal Services Department for further advice.

¹ RACGP Standards (4th edition criterion 1.1.2 – telephone and email communications found at <http://www.racgp.org.au/standards/112>)

² Ibid



Are your colleagues appropriately insured? What are the implications for your practice?

As the owner of a medical practice it is likely that you have a range of insurances in place to protect your practice and financial interests – everything from public liability insurance to cover for fire and theft. If you are a medical practitioner you will also have in place your own medical indemnity insurance.

It is likely your practice also relies on each of your employed doctors maintaining their own medical indemnity insurance to cover their professional liability. Many practices ask their doctors to provide them with confirmation of their medical indemnity insurance cover each year to ensure their doctors are maintaining their cover.

Policy cover between insurers varies and you may need to consider what happens when a doctor either isn't covered or has inadequate cover?

At law, your business is vicariously liable for the acts and omissions of its employees and this also applies to healthcare organisations. This means that where an employee makes a mistake or provides incorrect advice, the employer may be held liable to pay compensation to a claimant. For healthcare organisations, mistakes or incorrect advice can be dire for the patient and, as a result, compensation can be costly.

Consider the following scenario:

- A doctor has been employed by your practice for the last three years and at all times he has maintained individual medical indemnity insurance
- A patient who had been treated by the doctor makes a claim against the doctor and your practice
- Subsequent to the lodgement of the claim, the doctor advises you that he is in dispute with his insurer and, as a result, his insurer may not indemnify him in relation to the claim
- The dispute between the doctor and his insurer centres around non-disclosure concerns dating back to when the doctor first arranged his insurance.

In this instance your practice is now potentially exposed vicariously in relation to the claim made against the doctor.

Obviously it is not practical to be on top of the insurance arrangements of each of your employed doctors, the differences in each of their covers and the implications this might have for the way they practise, but you can protect your business.

Similar to your own medical indemnity insurance, MIGA's Insurance for Healthcare Companies provides protection for the practice entity covering the legal and claims costs of defending your business and practice staff against any complaints or allegations made against them relating to the provision of medical service, treatment or advice.

Neil Rankine

Business Development Manager – Corporate

Chaperones Concerning and unsettling, or necessary and appropriate?

Why would you want to use a chaperone in some patient consultations? Doesn't that mean there is a deficiency of trust in the doctor-patient relationship? Is this defensive medicine gone too far?

Not always.

Why chaperones?

Using a chaperone in some situations, such as intimate examinations, can make both doctor and patient feel more comfortable with the more confronting aspects of clinical practice. It is something which has been an accepted part of clinical practice for many years.¹

The chaperone review...

MIGA made submissions to an independent review arranged by the Medical Board of Australia into the use of chaperones in 'protective' situations. This is where a regulator imposes chaperone conditions on a practitioner where there has been a complaint about their conduct requiring investigation, but where the investigation is ongoing. The complaint may involve allegations of sexual misconduct.

MIGA appreciates the devastating effects a complaint of inappropriate conduct can have on a doctor, particularly their well-being and reputation.

The review examines the effectiveness of chaperone conditions to protect patients, their appropriateness given the importance of trust and informed consent in the therapeutic relationship, the circumstances where chaperone conditions are inappropriate, and the adequacy of disclosure and monitoring regimes.²

MIGA's response

A principal focus of MIGA's submission is that the use of chaperones more generally in clinical practice should not be seen as a sign of concern about a practitioner, but rather an accepted part of good practice.

MIGA has also emphasised:

- the need to preserve the use of protective chaperone conditions in appropriate situations
- there will be situations where protective chaperone conditions are inappropriate, depending on the nature and extent of the allegations against the doctor
- the effectiveness of protective chaperone conditions depends on the quality of regulator processes, particularly fair and thorough assessment, use of suitable chaperone training and careful monitoring
- how patients are informed of protective chaperone conditions needs to be examined, appropriately balancing public protection, privacy and fairness.

The future...

MIGA looks forward to further engagement with the review and will let our members know how things progress.

Timothy Bowen

Senior Solicitor – Advocacy, Claims & Education

¹ MIGA fact sheet, 'Managing Risk with Chaperones' – www.miga.com.au/riskresources/library/11RRF518.pdf

² More information about the review is available at nhppoc.gov.au/chaperone-review/

Student recipients of MIGA Elective Grants announced!



Ryan Avery
Bond University

Elective Organisation KiraKira Hospital
Elective Location KiraKira, Makira-Ulawa Province, Solomon Islands



Alexandra Ridley
University of Sydney

Elective Organisation World Medical Fund for Children
Elective Location Nkhotakota, Central Region, Malawi



Aileen Foale
University of Western Australia

Elective Organisation Mae Tao Clinic
Elective Location Mae Sot, Tak Province, Thailand



Hilary Brown
Monash University

Elective Organisation CEML Hospital
Elective Location Lubango, Angola



Stuart Brown
University of Adelaide

Elective Organisation Kaski Sewa Hospital & Research Centre
Elective Location Pokhara, Nepal



Matthew Pipe *Indigenous Grant recipient*
University of Newcastle

Elective Organisation World Mate Emergency Hospital
Elective Location Battambang, Cambodia



Life is full of choices, and a medical student's decision to help a community in need is a momentous one. It has wide reaching effects, particularly for the individuals and communities who inevitably welcome their skills and assistance with open arms.

MIGA's Elective Grants Program seeks to provide financial assistance to these students, and since it began about 12 years ago, we have now supported 76 students and communities around the world.

This year we had a remarkable level of interest, with applications ranging from participation in health camps in remote areas of South America to paediatric placements in neighbouring Papua New Guinea. It has been truly inspiring to see the commitment so many medical students have made to global health and their unselfish commitment to instigating change.

We are thrilled to announce this year's six Grant recipients, each receiving \$2,000 towards their personal elective costs and \$1,500 to provide medical or other aid to the community visited. While a special congratulations is extended to the recipients appearing below, we wish all students travelling on their electives interesting, challenging and rewarding placements.

As electives are completed, reports and photographs from these students' experiences will be added to the library on our website. They're a great resource for students planning electives and inspiring reading for the medical community. We look forward to continuing our support next year and to releasing details of the 2017 Program to students and universities in coming months.

Back soon...

The Christmas and New Year period can be a major risk to patient safety when health professionals head off on well-deserved annual leave.

Failure to transfer care or inadequate transfer of care is a common cause of serious adverse outcomes. Inadequate handover can also lead to delayed treatment, delayed follow up of significant test results, unnecessary repeat of tests, medication errors and increased risk of medico-legal action.

Ensuring that your patients and clients are cared for while you are away takes a bit of planning but we are here to give you some tips to make it as stress-free as possible. See some suggestions opposite.

Holidays are an important factor in maintaining good balanced health and for preparing for the coming year. Taking these few steps will give you peace of mind while you are away from the practice.

Liz Fitzgerald

National Manager – Risk Services

1. Advance notice

- Poster in the waiting room
- Post a message on the website or other social media
- Message on the answering system with alternative care options
- Personally see anyone you are currently treating in hospital so they understand the plan of care while you are away.

2. Advise your colleagues

- Identify someone you can rely on to cover you for required consultations or if there is an urgent matter
- Handover is paramount – regardless of where you practise.

3. Handover care

- Have a face to face meeting with the colleague covering you
- In writing
 - Ensure health records are up to date
 - Provide written instructions for vital issues eg test results or medication adjustments.



The joy of receiving this Christmas

'Tis the season to be jolly and for gift giving. However, it is likely that you may also be offered gifts from your clients and their families at this time of year. It is timely to look at what is considered professionally appropriate for accepting gifts.

A good place to look for direction is in the Nursing and Midwifery Board of Australia - Professional standards. *The Code of Professional Conduct* and the *Midwives' guide to professional boundaries* provide guidance on this topic. Both focus on the possible influence that accepting gifts may have on the professional relationship.

The reality is that people wish to express their appreciation for care by providing an acknowledgement in the form of a gift or benefit. The following guidelines should be considered in these circumstances:

- You may accept token or inexpensive gifts offered as a gesture of appreciation
- Do not accept gifts that are more than a token
- Do not accept gifts of cash
- Take all reasonable steps to ensure that neither you nor your immediate family members accept gifts or benefits that an impartial observer could view as a means of securing an influence or favour.

Put simply, a posy of flowers or a box chocolates can be happily accepted. As usual, if you are concerned about the appropriateness of other gifts, don't hesitate to speak to your colleagues or call us at MIGA to discuss.

Hallie Barron
Clinical Risk Coordinator

Always the
first choice for
your medical
indemnity
insurance and
protection



miga ALWAYS

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
Facsimile 1800 839 281

miga@miga.com.au
www.miga.com.au

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.

Note: Insurance policies available through MIGA are issued by Medical Insurance Australia Pty Ltd (AFSL 255906). The terms and conditions of the insurance provided by Medical Insurance Australia Pty Ltd are fully contained in the Policy Wording and any applicable endorsements. This document does not form part of the Policy Wording. MIGA has not taken into account your personal objectives or situation. Before you make any decisions about our policies, please read our Product Disclosure Statement and consider your own needs. Call MIGA for a copy or access the document via our website at www.miga.com.au. Information in this Bulletin does not constitute legal or professional advice.