

Guidelines for professional indemnity insurance



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Introduction

These guidelines have been developed by the Physiotherapy Board of Australia under s. 39 of the Health Practitioner Regulation National Law¹ (the National Law). Under s. 41 of the National Law, guidelines are admissible in proceedings under the National Law as evidence of what constitutes professional conduct or practice for physiotherapy.

These guidelines address the matter of professional indemnity insurance (PII).

Who needs to use these guidelines?

These guidelines apply to all physiotherapists registered in the categories of general, specialist, provisional and limited registration.

Summary of guidelines

Physiotherapy patients, clients, and consumers have the right to expect that physiotherapists will have adequate insurance to cover compensation if a patient, client or consumer suffers an injury during treatment. These guidelines supplement the requirements set out in the Board's professional indemnity insurance registration Standard.

Background

The nature of physiotherapy practice is associated with a level of risk of injury or harm to patients or clients. The community has a right to expect that physiotherapists will have adequate insurance to provide for compensation to the patient or client if he or she suffers an injury as a result of the action of a physiotherapist.

Under the National Law, all physiotherapists practising in Australia are required to have in place PII arrangements that are continuous throughout the period of registration. The physiotherapist must ensure that the cover is appropriate to his or her level of risk and includes run-off cover.

The Physiotherapy Board of Australia PII requirements are set out in its professional indemnity insurance registration Standard.

1. Professional indemnity insurance arrangements

Professional indemnity insurance arrangements mean arrangements that secure for the practitioner insurance against civil liability incurred by, or loss arising from, a

claim that is made as a result of a negligent act, error or omission in the conduct of the physiotherapist. This type of insurance is available to practitioners and organisations across a range of industries and covers the costs and expenses of defending a legal claim, as well as any damages payable. Some government organisations under policies of the owning government are self-insured for the same range of matters.

2. Adequate PII arrangements

It is important that physiotherapists understand the risks for which they require cover and where, due to the nature of their practice, it is other than the norm. Some forms of physiotherapy practice carry a higher risk of injury or harm to the patient or client and therefore require a higher level of cover. It is not possible for the Board to specify the appropriate insurance cover for each individual case.

The Board considers that it is the individual physiotherapist's role in consultation with his or her insurer to assess the risk involved in practice and to specify a level of cover appropriate to that risk.

The Board does not provide insurance advice or recommend insurers or products.

3. Run-off cover

Run-off cover means insurance that protects a physiotherapist who has ceased a particular practice or business against claims arising out of activities that occurred when he or she was conducting that practice or business. It is possible for action to be taken against a physiotherapist a considerable time after the incident took place; therefore, it is important that cover continues into the future.

This type of cover may be included in a PII policy or may need to be purchased separately.

4. Board monitoring of PII arrangements

Every year when a physiotherapist renews registration, he or she will be required to make a declaration that he or she will not practise without appropriate professional indemnity insurance arrangements being in place and has not practised without professional indemnity insurance during the previous registration period. The Board will conduct a random audit of physiotherapists' PII arrangements.

5. PII documentation

Physiotherapists with private PII arrangements must retain written advice from an approved insurer or insurance

¹ the National Law is contained in the schedule to the *Health Practitioner Regulation National Law Act 2009*.

broker that PII has been issued or that a premium has been paid and accepted. This will usually be in the form of a Certificate of Currency.

If a physiotherapist is covered by an employer or union, he or she will need to keep any PII documentation automatically issued to the physiotherapist. If a physiotherapist does not receive PII documentation usually, he or she will only need to seek it if requested in writing to do so by the Board, such as during an audit.

6. Board action for lapsed PII arrangements

The Board is empowered to ensure that physiotherapists only practise with PII arrangements in place. If a physiotherapist is found to have practised physiotherapy without PII arrangements in place, the Board will consider appropriate disciplinary action.

7. Public liability insurance

These guidelines address professional indemnity insurance issues. However, physiotherapists should also be aware of the importance of public liability insurance to cover injuries to patients or clients or members of the public on their premises.

8. Frequently asked questions

I have PII through my employer. What happens if I change jobs during the registration year?

If you change employers during the period of registration, you should check with your new employer that there are PII arrangements in place for you. If not, you will need to arrange your own private PII.

I plan to do a two-day continuing professional development workshop on the weekend. Does the PII in place for my work cover me after hours?

Employer-provided PII arrangements usually provide specific cover for the work you do. If there is a practical component to the workshop, you must check with your employer if you will be covered when undertaking continuing professional development offsite or after hours and, if not, make private arrangements.

I work in a hospital and provide physiotherapy to my son's football team as a volunteer. Do I need extra insurance cover?

Physiotherapists must have PII arrangements whether the services provided are paid or voluntary. It is unlikely that your employer's PII would cover your voluntary work.

I teach at a university and work in a hospital at weekends. I will be sitting my specialist exams in another State. Will either of my employer PII arrangements or the Australian College of Physiotherapists cover me for those exams?

The examining college may not provide PII cover for you and it is unlikely that either employer will cover this practice that is outside the terms of your employment. It is advisable to make private arrangements to cover the exams.

I operate under my employer's insurance and do not provide physiotherapy outside that work; what happens if I come across an accident or injury?

Providing first aid assistance in the case of a medical emergency is considered a "good samaritan" act. It is not necessary to have specific PII arrangements for such an event. However, it is important to make the distinction between assisting in an unexpected emergency and volunteering your services to a sporting or other community organisation. The latter will require PII arrangements to be in place.

References

Physiotherapy Board of Australia *Registration Standard for Professional Indemnity Insurance Arrangements*.

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Date of issue: 1 July 2010

Date of review: This guideline will be reviewed within 3 years of issue.

Last reviewed:



Attachment A

Extract of relevant provisions from the *Health Practitioners Regulation National Law Act 2009*

Division 3 Registration standards and codes and guidelines

39 Codes and guidelines

A National Board may develop and approve codes and guidelines—

- (a) to provide guidance to the health practitioners it registers; and
- (b) about other matters relevant to the exercise of its functions.

Example. A National Board may develop guidelines about the advertising of regulated health services by health practitioners registered by the Board or other persons for the purposes of section 133.

40 Consultation about registration standards, codes and guidelines

- (1) If a National Board develops a registration standard or a code or guideline, it must ensure there is wide-ranging consultation about its content.
- (2) A contravention of subsection (1) does not invalidate a registration standard, code or guideline.
- (3) The following must be published on a National Board's website—
 - (a) a registration standard developed by the Board and approved by the Ministerial Council;
 - (b) a code or guideline approved by the National Board.
- (4) An approved registration standard or a code or guideline takes effect—
 - (a) on the day it is published on the National Board's website; or
 - (b) if a later day is stated in the registration standard, code or guideline, on that day.

41 Use of registration standards, codes or guidelines in disciplinary proceedings

An approved registration standard for a health profession, or a code or guideline approved by a National Board, is

admissible in proceedings under this Law or a law of a co-regulatory jurisdiction against a health practitioner registered by the Board as evidence of what constitutes appropriate professional conduct or practice for the health profession.