

Authority

This standard was approved by the Australian Health Workforce Ministerial Council in December 2011 pursuant to the *Health Practitioner Regulation National Law Act* (the National Law), as in force in each state and territory, with approval taking effect from 1 July 2012.

Summary

All registered occupational therapists practising in Australia are required to have in place Professional Indemnity Insurance arrangements (PII arrangements) throughout the period of practice that meet the requirements of this registration standard.

The practitioner must ensure that the arrangements meet the minimum level of cover commensurate with their scope of practice and where necessary that the practitioner gives due consideration to additional cover, appropriate to the level of risk associated with the practitioner's scope of practice.

Scope of application

This standard applies to all registered occupational therapists. It does not apply to student registrants or practitioners who hold non-practising registration.

Requirements

1. All registered occupational therapists must not practise in Australia unless they have PII arrangements in place:
 - a) The PII arrangements must be appropriate for the full scope of practice, regardless of whether the practitioner is:
 - i) employed or self employed;
 - ii) practising fulltime, part-time or in an unpaid or volunteer capacity; or
 - iii) working in the private, non-government or public sector;
 - b) and note that different types of practice may require different levels of professional indemnity cover according to their individual scope of practice and risk.
2. Practitioners should consider obtaining:
 - a) retroactive to respond to any claims arising out of or in consequences of activities that were undertaken in the course of the practitioner's professional practice, prior to the date of the commencement of insurance,
 - b) run off cover to respond to any claims which relate to a period in which the practitioner was practising as an occupational therapist but where the claim is made after the practitioner ceases to practise as an occupational therapist; and/or
 - c) provision for automatic reinstatement to allow for the limit of indemnity (amount insured) to be reinstated for new, unrelated claims, after one or more claims has been paid to the limit of the indemnity.
3. The level of professional indemnity cover appropriate for an occupational therapist should take into account the following:
 - i) the practice setting and type of service being provided;
 - ii) the client group;
 - iii) the experience of the occupational therapist;
 - iv) the number of clients to whom treatment, advice, guidance or care is provided;
 - v) previous history of insurance claims and the type of claim made against the occupational therapist in the past, if any;
 - vi) advice from PII insurers, professional associations or industrial organisations, including advice regarding the history and volume of professional liability claims experienced by other members of the profession;
 - vii) current employment status; and/or
 - viii) advice from insurance brokers.
4. Registered and practising practitioners may be covered by either individual PII arrangements or by third party PII arrangements. Examples of third party PII arrangements might include cover via the employer's overall insurance arrangements or cover provided or purchased through membership with an industrial organisation (such as a union) or professional association ("third party arrangements").
5. Occupational therapists covered by third party arrangements must ensure that the PII arrangements meet this standard.

However:

 - a) if the third party PII arrangement does not meet this standard the practitioner may take out additional professional indemnity cover to ensure this standard is met;
 - b) if covered by an employer's insurance arrangement and practice is undertaken outside

of the employment relationship, the practitioner is required to have his or her own PII arrangements in place to cover this practice; and

- c) if any area of the practitioner's practice is specifically excluded from his or her PII arrangements, the practitioner must not practise in that area.
6. PII arrangements generally do not cover disciplinary matters. These are matters which do not usually lead to awards of compensation to clients or other persons who have suffered detriment as a result of a practitioner's action. However, these matters may involve costs for practitioners. The Board strongly recommends that a practitioner consider obtaining this cover for these types of disciplinary matters as part of their PII arrangements.
7. When applying for registration or at the time of annual renewal of registration, practitioners will be required to declare that they have PII arrangements which are compliant with this standard, or will be in place, while they practise the profession.
8. The Board may, at any time, require a practitioner to provide evidence that they have PII arrangements in place (National Law s129 (2) and the Board may conduct random audits to ensure compliance of this standard.
9. Occupational therapists covered by third party PII arrangements have a responsibility to determine whether such arrangements comply with this standard. Where covered by third party arrangements the practitioner is not required to retain documentary evidence of the insurance policy. However where requested by the Board, the practitioner must provide a certified copy of the certificate of currency of the relevant policy of insurance or a letter from the third party declaring that their PII arrangement covers the practitioner.
10. A failure to comply with this standard is a breach of the National Law and may lead to disciplinary action.

Definitions

Automatic reinstatement is a provision in policies which allows for the limit of indemnity (amount insured) to be reinstated for new, unrelated claims, after one or more claims has been paid to the limit of the indemnity.

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship

with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

Professional indemnity insurance arrangements means arrangements that secure for the practitioner's professional practice 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 practitioner. 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.

Retroactive cover means PII arrangements which cover the insured against claims arising out of or in consequence of activities that were undertaken in the course of the practitioner's professional practice, prior to the date of the commencement of the insurance.

Run-off cover means insurance that protects a practitioner who has ceased a particular practice against claims that arise out of or are a consequence of activities that were undertaken when he or she was conducting that practice. This type of cover may be included in a PII policy or may need to be purchased separately.

Third party cover: An individual may be covered by an employer's or education provider's insurance arrangement.

The employer or education provider's PII arrangements should provide sufficient cover for the occupational therapist's practice. The Board recognises that this may occur in various ways, for example, occurrence based arrangements in the public sector.

If the employed practitioner has practised before their current employment, cover for their previous practice will need to be covered by other PII – either an individual policy or another employer's or education provider's PII arrangements. Occupational therapists with multiple practices or employment must ensure that they have appropriate PII cover for each practice and job.

Review

This standard applies from 1 July 2012. The Board will review this standard at least every three years.