

# Professional Indemnity Insurance Policy

Supplementary Financial Services Guide (FSG)  
& Product Disclosure Statement (PDS) including  
Amendments to the Policy Wording V.12

This Supplementary document details amendments to the MDA National Professional Indemnity Insurance Policy V12 effective 1 July 2020. It incorporates the amendments set out in the Supplementary Product Disclosure Statement effective 1 July 2019. Amendments effective 1 July 2020 are shown in **green**.

The amendments are:

- to clarify, in the Financial Services Guide, the timing of our decisions in response to a complaint;
- to update the name and further update the contact details of the external dispute resolution body from the Financial Ombudsman Services to Australian Financial Complaints Authority (AFCA) in the Financial Services Guide;
- to amend the explanation of retroactive cover in light of MDA National's decision to issue to new Members from 1 July 2020, many policies without a retroactive date;
- to outline further additional factors affecting the cost of the Policy;
- to specify that premiums can be paid by monthly instalments;
- to clarify that the legal costs of defending you against the imposition of a fine or penalty arising from an unintended breach of the Privacy Act 1988 (Cth) are covered under the Policy, Clause 3.2;
- to provide cover for mandatory notification costs arising from an unintended breach of the Privacy Act 1988 (Cth), Clause 3.3;
- to increase the sub-limit for legal costs for investigations, inquiries and self referrals to a health program under the National Law to \$2.0 million, clauses 6 and 7(ii) and (iii);
- to provide, subject to limitations, automatic cover for a total of six months while you are outside Australia, clauses 8A and 8B;
- to increase the cover available for the costs of defending defamation claims against you under the Policy to the limit of indemnity, Clause 11;

- to amend the Policy to reflect the legislative changes to the Run-Off Cover Scheme (ROCS);
  - to include in the Policy a summary of our obligations regarding Universal Cover;
  - to clarify the importance, particularly before we issue or renew a Policy, of you providing full and accurate answers to our questions and all documents and information we request;
  - to specify that before we make an offer to you of cover, we will conduct a risk assessment;
  - to clarify the circumstances in which indemnity is not available under the Policy as a result of indemnity being available from other sources;
  - to amend the definition of retroactive date to reflect MDA National's decision to issue to new members from 1 July 2020, many policies without a retroactive date;
  - to clarify the allocation of successful costs orders in pursuit of defamation claims, Clause 11.2;
  - to include a Continuous Cover provision. That provision, subject to qualifications, gives cover to claims under the Policy even when the matter for which the claim under the Policy relates, arose from circumstances which should have been notified to us in a prior policy period, Clause 17 A;
  - to update and clarify that your maximum limit of indemnity and sub-limits will be set out in the Certificate of Insurance, Clause 18;
  - to make further amendments to the single claim provision, Clause 19;
  - to insert a condition to clarify the obligation, where applicable, to pay an excess, Clause 24 A;
  - to insert a condition obliging you to pay to us costs we incur in recovering overdue payments of premium and excess, Clause 24 B;
  - to amend the Policy Conditions to enable MDA National Insurance to undertake an audit of a Member's gross annual billings and practice, Clause 34;
  - to amend the Cancellation clause and remove the minimum threshold for a refund, Clause 41;
  - to clarify the interpretation of pronouns and other gendered terms, Clause 44;
  - to add new definitions of Eligible Data Breach and Employer Indemnified, Clause 45;
  - to amend the definition of Excess.
- The amendments apply to policies commencing on or after 1 July 2020. This Supplementary FSG, PDS and Amendments to the Policy Wording should be read in conjunction with the Professional Indemnity Insurance Policy Combined FSG, PDS and Policy Wording Version 12 which is available from the Download Centre on our website [mdanational.com.au](http://mdanational.com.au).

# Amendment to SECTION 1 — Financial Services Guide

## **Page 5 — Internal Dispute Resolution**

The text under this heading is replaced with:

### **Internal dispute resolution**

In our experience, most issues can be resolved with a quick phone call or email to one of our staff.

If you are not satisfied with the response to your complaint or do not wish to take up a matter directly with staff, please contact our Complaints Officer by:

Phone: 1800 034 466 (Freecall)

Fax: (08) 9415 1492

Email:

[complaintsofficer@mdanational.com.au](mailto:complaintsofficer@mdanational.com.au)

In writing:

PO Box 445 WEST PERTH WA 6872

We will respond to you with a decision within 15 business days provided we have all the necessary information and have completed any required investigation. If we need further time we will keep you informed. If you are satisfied with our decision, the matter will be considered resolved. If you are not satisfied with our decision and wish to pursue the matter further you may wish to refer your complaint to the external dispute resolution scheme to which we belong.

## **Page 5 — External Dispute Resolution**

This section is amended to read:

### External dispute resolution

If you are not satisfied with the outcome of our internal resolution process, you can refer the dispute to the Australian Financial Complaints Authority (AFCA). The AFCA is an independent and impartial national body established to handle enquiries and complaints and to resolve disputes between consumers and their financial services provider. Their service is free to consumers.

AFCA will review a complaint by you or an insured person only if you or the insured person have first gone through our internal complaints and dispute resolution process and the matter to which the complaint relates is within AFCA's Terms of Reference. Please note that AFCA is not able to consider matters relating to Membership of MDA National.

You can contact AFCA by:

Phone: 1800 931 678 (Freecall)

Email: [info@afca.org.au](mailto:info@afca.org.au)

Website: [www.afca.org.au](http://www.afca.org.au)

In writing:

GPO Box 3 MELBOURNE VIC 3001

# Amendment to SECTION 2 — Product Disclosure Statement

## **Page 6 — Applying for Professional Indemnity Insurance**

This heading and the text under this heading is replaced with:

## **Page 6— Applying for and Renewing your Professional Indemnity Insurance**

### **Universal Cover Obligations**

From 1 July 2020 a change to the *Medical Indemnity Act 2002*:

- prevents medical indemnity insurers from refusing to provide medical indemnity cover for medical practitioners in relation to private medical practice, except in circumstances set out in the legislation; and
- specifies when the insurer may require a medical practitioner to pay a risk surcharge.

If you would like to find out more about the Universal Cover Scheme, please contact us.

### **Policy Application and Renewal Process**

You must fully and accurately fill out a proposal to apply for this insurance.

In the case of renewal, you must ensure that your declaration is accurate.

With respect to your application for insurance, any renewal and any variation, you must ensure that you fully answer our questions, that your answers are accurate and that you provide all documents and information we request.

Before we make an offer of cover we will conduct a risk assessment. That assessment may include, at a time convenient to you, a visit from and an interview with our risk advisors.

The extent of cover we may offer you and the cost of the Policy will depend on the answers, information and documents you provide to us as well as other information we obtain.

Failure to provide full and accurate answers, information and documents may allow us to cancel your contract or reduce the amount we will pay you if you make a claim under the Policy, or both. If your failure is fraudulent, we may refuse to pay a claim under the Policy and treat the contract as if it is never existed.

### **Policy documents**

You can apply for a Policy at our website [mdanational.com.au](http://mdanational.com.au). You can also request a proposal form by calling 1800 011 255 or visiting the Download Centre of our website.

## **Page 9 – Medical Practitioners and Students**

The following bullet point is added immediately after the first bullet point under the words

The Policy also:

insures you for the cost of mandatory notification arising out of your unintended breach of the Privacy Act 1988 (Cth) or equivalent State or Territory Legislation (Clause 3.3)

## **Page 9 – Medical Practitioners and Students**

The following bullet point is added immediately after the last bullet point under the words

The Policy also:

- provides limited cover for the first six months you are overseas in any period of insurance (but not, with some exceptions, with respect to the United States).

## **Page 9 – Medical Practitioners only**

The following bullet point is added immediately after the last bullet point under the words

If you are a medical practitioner (but not if you are a medical student), the Policy also:

- provides, subject to qualifications, cover for claims under the Policy even when the matter for which the claim under the Policy relates, arose from circumstances which should have been notified to us in a prior policy period, (Clause 17 B).

## **Page 11 and 12 – Retroactive Cover**

The text under this heading is amended to read:

### **Retroactive cover**

Retroactive cover provides cover for your prior practice in respect of matters that you first become aware of during the period of insurance. The retroactive date of your Professional Indemnity Insurance Policy determines how much of your prior practice is covered under your Policy.

Your Certificate of Insurance **may** include a retroactive date.

The Policy will not cover you for incidents that occurred prior to this date. Due to the nature of healthcare services, it is not unusual for claims against you, investigations or inquiries to arise months or years after the incident giving rise to them occurred. As your Policy is a claims made policy, such matters may be covered, but only if the incident giving rise to them occurred on or after the retroactive date shown on your Certificate of Insurance. If we issue a Policy without a retroactive date, the Policy can respond to properly notified matters irrespective of the date of the incident.

When MDA National Insurance offers insurance to a medical practitioner it is obliged to make an offer of insurance which covers the medical practitioner for any claims against you arising from prior incidents that are not otherwise covered by any insurance. Therefore it is very important that **if we issue a Policy with a retroactive date** you ensure that your **retroactive date** provides you with adequate retroactive cover for all areas of your past practice.

When considering the appropriate retroactive date you should take into account the first date on which:

- you practised privately in Australia and did not have medical indemnity cover from any source including a Medical Defence Organisation; or
- you practised in the public hospital system or a corporate setting and did not have indemnity from your employer or under a Government indemnity scheme; or
- you held a claims made medical indemnity insurance policy; or
- your last claims incurred medical indemnity cover expired; or
- if you are a recent graduate, you commenced your internship; or
- if you are a student, you commenced your medical degree.

Once your retroactive date has been agreed by us, in most cases you will retain this retroactive date for each subsequent renewal. However if you do require additional retroactive cover, you can apply for this at any time. Prior to 1997, all Australian Medical Indemnity cover was provided on a claims incurred basis. Claims incurred cover responded to claims against you which arose from incidents which occurred during the period of cover, even if the claim against you came to light after the cover expired. This claims incurred coverage was gradually phased out from 1997 to 2003, after which cover became claims made. Claims made policies cover claims against you which are made and notified during the current period of insurance, and which arise from incidents occurring

after the retroactive date of the Policy. Your Policy provides other cover including with respect to investigations and inquiries but only for incidents occurring after the retroactive date of the Policy. If you practised prior to 1 July 2003, it is important to find out when your last claims incurred cover expired. To illustrate, if your Policy has a retroactive date of 1 July 2003, your Policy would not cover a claim against you or any other matter arising from an incident that occurred before 1 July 2003, even if you first learn of the claim against you, investigation or inquiry or other matter and report it to us during the current period of insurance. Everyone's circumstances are unique, but as a guide, the following may assist you in making a decision on your retroactive cover needs. Please contact our Member Services team on 1800 011 255 if you require further clarification.

## **Page 12 – Policy Conditions**

The following sentence is added to the final paragraph of the section titled Policy Conditions:

We also have a right to conduct an audit of your gross annual billings and your practice (Clause 34).

## **Page 14 – How much we insure you for**

The table in this section is replaced with the table below

How much we insure you for

The total amount we will pay for the aggregate of all claims, legal costs and other matters under your Policy during the period of insurance will not exceed the lesser of the Maximum Limit of Indemnity set out in the Certificate of Insurance and the Maximum Limit of Indemnity set out in this table	Maximum Limit of Indemnity
All claims under the Policy during the period of insurance	\$20,000,000 in the aggregate
Provided that the Maximum Limit of Indemnity is not exceeded, the lesser of the sub-limits set out in the Certificate of Insurance and the following sub-limits apply during the Period of Insurance	Sub-limits as set out below
Clause 3.2 - Fines and penalties for breaches of the Privacy Act 1988 (Cth)	\$250,000 in the aggregate
Clause 3.3 – Costs of mandatory notification arising from breaches of the Privacy Act 1988 (Cth)	
Clause 6 and 7(ii) and (iii) – Legal costs for investigations, inquiries, self-referrals to a health Program under the National Law and claims under the Policy with respect to sexual misconduct and criminal conduct	\$2,000,000 in the aggregate
Clause 8 – Communicable disease cover	\$100,000 Medical Practitioners  \$50,000 Medical Students Payable once only per Insured and for only one Communicable Disease as defined
Clause 11.1 – Defamation claims against you	\$20,000,000 in the aggregate for:  11.1 defamation claims against you including legal costs for the defence of defamation claims against you; and

Clause 11.2 – Defamation allegations pursued by you against another	\$100,000 in the aggregate for:  11.2 legal costs for the pursuit of defamation allegations but only after the exhaustion of \$20,000 excess payable by you
Clause 12 – Legal costs for you seeking an Apprehended Violence Order against another	\$100,000 in the aggregate
Clause 13 – Legal costs of defending alleged breaches of competition, consumer or fair trading legislation	\$100,000 in the aggregate
Clause 14 – Legal costs of employment disputes and credentialing disputes	\$100,000 in the aggregate but in relation to legal costs for any claim by you against another for unpaid remuneration and other monies under Clause 14 (iii) we will not pay more than the amount sought by you in that claim
Clause 15 – Legal costs of Medical College training disputes	\$100,000 in the aggregate
Clause 16 – Loss of Documents	\$100,000 in the aggregate
Clause 17 – Loss of income for attending a hearing at court with respect to a civil liability claim against you	\$20,000 in the aggregate with a maximum of \$2,000 per day for up to 10 days

## **Page 16 — Policy Excess**

The text under this heading is replaced with:

### **Policy excess**

Most claims under the Policies issued by us to medical practitioners and medical students will not have an excess. If an excess is to apply, it will be detailed in your Certificate of Insurance and it is a condition of indemnity under this Policy that you must pay, as directed by us, the applicable excess for each and every relevant matter for which you seek indemnity under the Policy.

An excess of \$20,000 applies to the pursuit of defamation allegations (Clause 11.2).

## **Page 16 — Single claim**

The text under this heading is replaced by: Single claim

Where:

- a) an act or omission;
- b) one or more related acts or omissions;
- c) any course of related treatment; or
- d) any acts or omissions which are substantially in common with each other

gives rise to more than one claim against you (whether by one or more claimants), all such claims will constitute a single claim against you and will be treated as if first made at the time of the earliest claim against you by any claimant.

Without limiting the circumstances which constitute a single claim, all claims:

- forming part of a class, group or representative action; **and**

- relating to the pregnancy of any one woman or the birth of the child or the children from that pregnancy

will constitute a single claim (Clause 19).

## **Page 16 — How much will the Policy cost?**

The following **changes** have been made to the last paragraph of this section:

Other factors that could affect the total cost of your Policy are:

- a Premium Support Scheme subsidy;
- an administrative charge if paying your premium by instalments;
- your claims history;
- any specific factors that **affect** your risk; and
- any special discounts.

## **Page 17 — Paying your insurance premium**

**The following changes have been made to the first two paragraphs of this section:**

You can pay your premium annually, **or seek to pay** quarterly or monthly, by a range of payment options. If you pay by instalments an administration charge is added so your total premium will be more than if you paid the premium in one transaction.

If **we don't accept your request to pay by instalments**, we can provide you with the contact details of a premium funding provider who can provide a loan for the premium which is repayable to them in monthly instalments.

The premium funding provider will charge you an application fee and interest on the amount borrowed.

## **Page 18 — Policy Variations**

### **Run-off cover**

The text under the heading **Run-off cover** is amended to read as follows:

Run-off cover is a form of cover generally taken out by professionals when they permanently cease practice, as claims can be made against a medical practitioner years after the healthcare services are provided.

Run-off indemnity covers claims against you that first come to light and are notified to us in writing after a nominated cessation date, but only in respect of healthcare services provided during the period from your retroactive date to your nominated cessation date. The cessation date is normally the day after your last day of practice for which you require our cover.

**With respect to run-off cover you should be aware of changes to the Australian Government's Run-Off Cover Scheme (ROCS), which means that from 1 July 2020 we are obliged to offer run-off cover to medical practitioners who (regardless of age) have permanently ceased private remunerated practice in Australia and who satisfy certain eligibility criteria. Please refer to pages 21-23 for further information on the Scheme. If you would like to find out more about run-off cover, please contact our Member Services team on 1800 011 255.**

The following heading and Clause is added immediately after the Run-off cover section:

### **Travelling overseas**

As set out below, the Policy provides limited cover for the first six months you are overseas in any period of insurance (but not, with some exceptions, with respect to the United States). If you will be overseas for more than six months or do not meet the automatic overseas cover eligibility criteria you can seek an extension of cover under your Policy by completing the Overseas Cover Request form via the Member Online Services section of our website [mdanational.com.au](http://mdanational.com.au) or by writing to us.

## **Page 18 and 19 — Policy variations**

Practising outside Australia and Team Doctors Travelling Overseas

These sections are replaced with:

### **Practising outside Australia**

If you are a medical student on an overseas elective as part of your university course, the Policy automatically extends parts of your cover while you are overseas but not (with the exception of Good Samaritan acts) with respect to the United States (Clause 8A).

If you are a medical practitioner then, subject to limitations, the Policy automatically extends parts of your cover for the first six months you are overseas but not (with the exception of Good Samaritan acts and acting as a team doctor) with respect to the United States (Clause 8B).

## **Page 20 — Refunds**

This section is replaced with the following:

A premium refund may be due to you if your policy is cancelled or amended during the year. Subject to the cancellation clause (Clause 40), if a refund is due to you we will either issue it directly to your nominated bank account or issue a refund cheque to your last known address or, if instructed by you, donate the amount to a registered charity identified within our Corporate Social Responsibility Program.

## **Page 21 and 22 — Run-off Cover Scheme (ROCS)**

**This section is amended to read as follows:**

**From 1 July 2020 there are changes to the Australian Government ROCS for medical practitioners who have ceased private remunerated practice in Australia and who satisfy certain eligibility criteria, and to the estates of deceased medical practitioners.**

The ROCS ensures that eligible medical practitioners get secure and free medical indemnity cover for incidents which have occurred but have not been notified to insurers prior to becoming eligible for the ROCS.

Under the ROCS, medical indemnity insurers are required to provide indemnity to eligible medical practitioners based on their last contract of insurance. The medical indemnity insurers manage any claims that emerge under a ROCS insurance policy.

The Government reimburses the insurer for any valid claims (including the cost of managing claims) made against eligible medical practitioners.

Australian Government Regulations require that we pay the Government a certain percentage of premiums collected to fund the ROCS. Your renewal notice will detail the ROCS Support Payment we have paid on your behalf.

### **Eligibility**

You are eligible for ROCS if you:

- (a) have retired permanently from remunerated private medical practice;
- (b) have retired permanently from all remunerated medical practice (including public sector);
- (c) have not engaged in any remunerated private medical practice at any time during the preceding period of 3 years;
- (d) have not engaged in any (including public sector) remunerated medical practice at any time during the preceding period of 3 years;
- (e) have ceased (temporarily or permanently) all remunerated medical practice because of maternity\*;
- (f) have ceased all remunerated medical practice because of a permanent disability\*\*; or

**(g) no longer reside in Australia and have permanently ceased medical practice in Australia after having validly worked in private medical practice on a subclass 422 (Medical Practitioner) or 457 (Business - Long Stay) visa or, from 18 March 2018, a temporary visa.**

A medical practitioner's estate will also be eligible for ROCS after the medical practitioner's death.

\*A person is taken to have ceased practice as a medical practitioner because of maternity if and only if:

- (a) the person has ceased all practice as a medical practitioner:
  - (i) because she is pregnant;
  - (ii) has given birth; or
  - (iii) in order to care for one or more children to whom she has given birth; or
  - (iv) is recovering from a pregnancy (including a miscarriage or stillbirth); and
- (b) another person who is a medical practitioner has certified, that the person is pregnant, has given birth or is recovering from a pregnancy (including a miscarriage or stillbirth).

\*\*A person is taken to have ceased practice as a medical practitioner because of permanent disability if and only if the person has permanently ceased all medical practice because:

- (a) the person has incurred an injury, or suffers from an illness, that is permanent, or is likely to be permanent; and
- (b) as a result of the injury or illness, the person can no longer practice in the area of medicine in which he or she had (at the time of the injury or illness) chosen to practice and been qualified to practice; and
- (c) another person who is a medical practitioner has certified that the person:
  - (i) has incurred an injury or suffers from an illness that is permanent or is likely to be permanent; and
  - (ii) can no longer practise in that area of medicine.

## Amendment to SECTION 3 — Policy Wording

### **Page 25 — Clause 3 Breach of Privacy**

Clause 3 is replaced by:

We will indemnify you:

3.1 for civil liability for a claim against you arising out of your unintended breach of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation in connection with your provision of healthcare services, but only when:

- (a) the claim against you is first made during the period of insurance; and
- (b) you tell us about the claim against you in writing during the period of insurance; and
- (c) the claim against you arises from an act or omission occurring on or after the retroactive date and not within any non-practising period.

3.2 to the extent permitted by law, for a civil fine or penalty (and for legal costs that we incur on your behalf for defending you against the imposition of the fine or penalty) arising out of your unintended breach of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation but only when:

- (a) the breach arises out of your provision of healthcare services; and
- (b) you first become aware of the possible or alleged breach during the period of insurance; and
- (c) you tell us in writing about the possible or alleged breach during the period of insurance; and

(d) the breach occurred on or after 1 July 2018 or the retroactive date, whichever is the later.

3.3. for the reasonable costs of notifying anyone legally required to be to be notified of an actual, suspected or alleged or possible eligible data breach under of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation but only when:

- (a) the breach arises out of your provision of healthcare services; and
- (b) you first become aware of the actual, suspected, alleged or possible eligible data breach during the period of insurance; and
- (c) you tell us in writing about the actual, suspected, alleged or possible eligible data breach during the period of insurance; and
- (d) the eligible data breach occurred on or after 1 July 2018 or the retroactive date, whichever is the later; and
- (e) we have agreed to the costs of notification before they are incurred.

We will not indemnify you with respect to any breach which occurs or continues after you knew, or reasonably ought to have known, that you would contravene the *Privacy Act 1988* or equivalent legislation.

## **Page 26 – Clause 5 Legal costs for defending claims against you**

Clause 5 is amended to read:

Subject to Clause 36, we will indemnify you for legal costs that we incur on your behalf for defending you against any civil liability claim against you that is covered under any of clauses 1, 2, 3.1, 4,10 or 11.1 of your Policy.

## **Page 29 – Clause 9 Automatic additional cover for Medical Practitioners**

The following is inserted before Clause 9:

### **Automatic additional cover for Medical Students**

#### **Overseas Cover (medical students only)**

8A If you are a medical student, but only if you are on an overseas elective as part of your university course, we will extend indemnity under clauses 1, 2, 4, 5, 6 and 8 to you with respect to your provision of healthcare services outside the Commonwealth of Australia but not with respect to the United States (other than for Clause 2) as set out in Clause 20.22.

This cover does not apply to any period prior to 1 July 2019.

#### **Automatic additional cover for medical practitioners**

#### **Overseas Cover (medical practitioners only)**

8B In any policy period, for the first six months you are overseas (whether or not continuous and whether or not you were practicing for that entire time) we will, subject to the circumstances set out below, extend the following covers to you with respect to your provision

of healthcare services outside the Commonwealth of Australia but not with respect to the United States as set out in Clause 20.22 (other than for clauses 2 and 8B (ii) (b)). We will extend indemnity under clauses:

- (i) 2, 4, 5, 6, 8, 12 and 16 if you are employer indemnified but only to the extent that the cover provided in those clauses exceeds your entitlement to indemnity from any other policy or source;
- (ii) 1, 2, 4, 5, 6 , 8, 12, 16 and 17 if you are not employer indemnified but only if:
  - (a) you are undertaking a fellowship in a recognised Australian healthcare training program; or
  - (b) you are accompanying, as a team doctor, an Australian sporting team or cultural group, but you will only be covered with respect to claims against you by members of that team or group who are Australian residents; or
  - (c) your healthcare services are as a volunteer with a charitable organisation; or
  - (d) your healthcare services are disaster relief work.

This cover does not apply to any period prior to 1 July 2019.

Where you will be overseas for more than six months in any period of insurance, or you will be overseas and the circumstances in (i) and (ii) above do not apply, you can apply for an extension of cover under your Policy by completing the Overseas Cover Request form via the Member Online Services section of our website [mdanational.com.au](http://mdanational.com.au) or by writing to us.

## **Page 30 – Clause 11 Defamation claims and legal costs of defamation allegations (medical practitioners only)**

Clause 11.1 is amended to remove the words: “(and for legal costs that we incur on your behalf for defending you against that claim)” from Clause 11.1. and to remove the word “alleged” from Clause 11.1 (d) so that Clause 11.1 is replaced with the following:

11. If you are a medical practitioner, we will indemnify you for:

11.1 civil liability for a claim against you arising from defamation by you in the course of your provision of healthcare services but only when:

- (a) the claim against you is first made during the period of insurance; and
- (b) you tell us about the claim against you in writing during the period of insurance; and
- (c) the defamation occurred on or after the later of 1 July 2017 or the retroactive date and not within any non-practising period; and
- (d) you did not engage in the defamation with dishonest or malicious intent, or knowingly or deliberately in contravention of any law, rule, regulation or order of a court or tribunal, or with reckless disregard for the consequences; and
- (e) the claim against you is not a claim for which you are entitled to indemnity under Clause 4 (Liability for reports about others);

In Clause 11.2 the last paragraph beginning with ‘If you pursue a defamation allegation ...’ has been replaced with the following:

If, as a result of the pursuit of a defamation action (by you or by us on your behalf), you become entitled to payment by another party for legal costs, you must direct payment to us of an amount equal to any amount incurred by us (but not including any excess paid to us by you) in pursuit of the defamation action. If your entitlement to legal costs is less than the amount incurred by us (but not including any excess paid to us by you), you must direct payment to us of the full amount.

## **Page 32 – Clause 14 (iii) Legal costs for employment and credentialing disputes (medical practitioners only)**

Replace the words “in excess of” with the words “greater than” in the last line of paragraph 14 (iii).

## **Page 34 – Automatic additional cover for medical practitioners only**

The following heading and Clause is added immediately after Clause 17:

### **Continuous Cover (medical practitioners only)**

17 A If, prior to the period of insurance, you fail to inform us of an act, omission or event which you knew, or a reasonable person in your professional position could be expected to have known, might give rise to a claim against you or other matter for which you claim under the Policy then, notwithstanding exclusion 20.2, we will indemnify you but only when:

- (a) we were your professional indemnity insurer when you first knew or a reasonable person in your professional position could be expected to have first known that the act, omission or event might give rise to a claim against you or other matter for which you claim under the Policy;
- (b) we continued, without interruption, to be your professional indemnity insurer until this Policy came into effect;
- (c) had we been informed by you of the act, omission or event you would have been indemnified under the policy in force at that time;
- (d) the act, omission or event had not previously been notified to us or any other insurer; and
- (e) your failure to inform us of the act, omission or event was not fraudulent misrepresentation or fraudulent non-disclosure.

Our liability to indemnify you under this clause is limited to the lesser of the covers under the terms of the policy in force at the earlier time referred to in paragraph (c) or under this Policy. Without limiting the operation of this provision the effect is that, if there was no cover under either the earlier policy or this Policy, this clause does not extend indemnity to you.

The terms of this Policy otherwise apply, including, without limitation, remedies arising from prejudice caused by late notification.

## Page 34 – Clause 18 How much we insure you for

The table in this section is replaced with the table below.

The total amount we will pay for the aggregate of all claims, legal costs and other matters under your Policy during the period of insurance will not exceed the lesser of the Maximum Limit of Indemnity set out in the Certificate of Insurance and the Maximum Limit of Indemnity set out in this table	Maximum Limit of Indemnity
All claims under the Policy during the period of insurance	\$20,000,000 in the aggregate
Provided that the Maximum Limit of Indemnity is not exceeded, the lesser of the sub-limits set out in the Certificate of Insurance and the following sub-limits apply during the Period of Insurance	Sub-limits as set out below
Clause 3.2 - Fines and penalties for breaches of the Privacy Act 1988 (Cth)	\$250,000 in the aggregate
Clause 3.3 – Costs of mandatory notification arising from breaches of the Privacy Act 1988 (Cth)	
Clause 6 and 7(ii) and (iii) – Legal costs for investigations, inquiries, self-referrals to a health Program under the National Law and claims under the Policy with respect to sexual misconduct and criminal conduct	\$2,000,000 in the aggregate
Clause 8 – Communicable Disease cover	\$100,000 Medical Practitioners  \$50,000 Medical Students Payable once only per Insured and for only one Communicable Disease as defined
Clause 11.1 – Defamation claims against you	\$20,000,000 in the aggregate for:  11.1 defamation claims against you including legal costs for the defence of defamation claims against you; and

Clause 11.2 – Defamation allegations pursued by you against another	\$100,000 in the aggregate for:  11.2 legal costs for the pursuit of defamation allegations but only after the exhaustion of \$20,000 excess payable by you
Clause 12 – Legal costs for you seeking an Apprehended Violence Order against another	\$100,000 in the aggregate
Clause 13 – Legal costs of defending alleged breaches of competition, consumer or fair trading legislation	\$100,000 in the aggregate
Clause 14 – Legal costs of employment disputes and credentialing disputes	\$100,000 in the aggregate but in relation to legal costs for any claim by you against another for unpaid remuneration and other monies under Clause 14 (iii) we will not pay more than the amount sought by you in that claim
Clause 15 – Legal costs of Medical College training disputes	\$100,000 in the aggregate
Clause 16 – Loss of Documents	\$100,000 in the aggregate
Clause 17 – Loss of income for attending a hearing at court with respect to a civil liability claim against you	\$20,000 in the aggregate with a maximum of \$2,000 per day for up to 10 days

## **Page 36 – Clause 19 Single Claim**

A new heading of Single Claim has been inserted and Clause 19 is amended to read as follows:

19. Where:

- (a) an act or omission;
- (b) one or more related acts or omissions;
- (c) any course of related treatment; or
- (d) any acts or omissions which are substantially in common with each other; gives rise to more than one claim against you (whether by one or more claimants), all such claims will constitute a single claim against you and will be treated as if first made at the time of the earliest claim against you by any claimant.

Without limiting the circumstances which constitute a single claim, all claims:

- forming part of a class, group or representative action; and
- relating to the pregnancy of any one woman or the birth of the child or the children from that pregnancy

will constitute a single claim.

(b) any indemnity arrangement or scheme (including but not limited to an indemnity provided by your employer or a discretionary indemnity scheme provided by a professional defence organisation or mutual fund) whether current or not,

- (c) any law,
- (d) any contract, or
- (e) any other arrangement

that in each case is not a contract of insurance entered into by you or, if it is such a contract, is required to be effected by or under a law in Australia or any State or Territory in Australia;

## **Page 39 – Clause 20.22 Exclusions**

Clause 20.22 is amended to read  
20.22 the matter for which you claim under the Policy arises out of:

- (a) a judgment or order:
    - (i) by a court in the United States of America or its territories; or
    - (ii) by a court elsewhere exercising jurisdiction under a Local, State or Federal Law of the United States of America; or
    - (iii) based on, derived from or to enforce a judgment or order by a court referred to in (i) or (ii); or
  - (b) acts or omissions which occur within the territorial limits of the United States of America or its territories.
- This exclusion does not apply to Good Samaritan acts described in Clause 2 or Overseas Cover provided in Clause 8B
- (ii) (b) or loss of electronic documents or data covered under Clause 16.

## **Page 36 – Clause 20.1 Exclusions**

What we exclude from your Policy

**Clause 20.1 is replaced with:**

**and to the extent that you are entitled to indemnity under:**

- (a) any other contract of insurance,

## **Page 40 – Clause 21.4 Exclusions**

Clause 21.4 is amended to read:

the matter for which you claim under the Policy arises from any act or omission occurring or allegedly occurring outside the Commonwealth of Australia or its territories or protectorates, unless we have agreed in writing to extend cover and then only to the jurisdictions and for the period of time specified by us in writing. This exclusion does not apply to Overseas Cover provided in clauses 8A and 8B, Good Samaritan acts described in Clause 2 or to loss of electronic documents or data covered under Clause 16.

## **Page 41 – Clause 24A Payment of Premium**

The following clause is added after Clause 24:

### **Payment of Excess**

24A. It is a condition precedent to cover that you must pay, as directed by us, the applicable excess for each and every relevant matter for which you seek indemnity under the Policy.

## **Page 43 – Clause 34 Proof of Billings**

The following sentence is added at the end of Clause 34:

You agree that we are entitled but not obliged to conduct an audit of your gross annual billings and an audit that your practice is consistent with your field of practice.

## **Page 45 – Clause 40 Cancellation**

The third paragraph in the Cancellation clause has been amended and the clause now reads:

40. You may cancel your Policy at any time by notifying us in writing.

If you cancel your Policy within the cooling off period of 21 days after it was issued to you, your premium will be refunded in full with no cancellation fee deducted.

If you cancel your Policy outside the cooling off period, a cancellation fee applies which is equivalent to 45 days' premium.

If you have paid your premium in full, we will deduct this cancellation fee from the refund. If you are paying the premium in instalments, you are still liable to pay the cancellation fee. We will issue any refund directly to your nominated bank account or issue a refund cheque to your last known address or if instructed by you, donate the amount to a registered charity identified within our Corporate Social Responsibility program.

There will be no refund of premium (but our rights to a cancellation fee are maintained) where:

- (a) the total premium paid is \$20 or less;  
or
- (b) you have notified a claim or potential claim under the Policy.

Within 30 days of cancellation you must pay us any cancellation fee and any outstanding premium owing at the date of cancellation, failing which we may recover those amounts from you as a debt.

## **Page 46 – Clause 41 Cancellation**

41. We may cancel your Policy by giving you three business days' written notice if:

Replace Clause 41 (c) with:

(c) you fail to comply with a provision of your Policy including the provisions to pay the premium and to pay the excess.

## **Page 46 – Clause 44 Interpretation**

Clause 44 is amended to read:

44. Under your Policy, words in the masculine, feminine and neuter genders include any other gender and the singular includes the plural and vice versa unless the context otherwise requires.

## **Page 47 – Clause 45 Definitions**

The following new definitions have been inserted after the definition of Documents:

**Eligible data breach** means a data breach involving unauthorised access to or unauthorised disclosure of personal information that is likely to result in serious harm to any individual to whom the information relates and which must be notified pursuant to the provisions of the *Privacy Act 1988* (Cth) or equivalent State or Territory legislation.

**Employer Indemnified** means any circumstance in which you are entitled to indemnity from another source (such as government, hospital, employer, insurer or other indemnity provider) with respect to your civil liability for claims against you resulting from your provision of healthcare services.

**Excess** means the amount set out in the Certificate of Insurance that must be paid to us at our direction before we will indemnify you.

The definition of retroactive date is amended to read:

**Retroactive date** means the date specified as "retroactive date" in the Policy. (If "Unlimited" is specified, no retroactive date applies.)

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