



Professional Indemnity – Explanatory Note

Background

In 2017 the Oireachtas made changes to the Medical Practitioners Act requiring all registered doctors to have in place minimum levels of professional indemnity cover as may be specified by the National Treasury Management Agency. The Medical Council is obliged to seek confirmation from doctors that they have the appropriate level of cover in place.

The Council is now undertaking a public consultation on the rules which will guide the administrative arrangements to support the legislative changes.

In simple terms, all doctors practising medicine in Ireland must have indemnity cover appropriate to the nature of their employment/practice arrangement and their area of practice. Professional indemnity is a mandatory requirement and will protect the practitioner against claims arising in respect of medical malpractice, negligence and other civil claims that arise from a breach of duty associated with your practice as a doctor.

As indemnity cover arrangements vary dependent upon employment/practice arrangement and their area of practice, the requirements for reporting indemnity cover also vary.

As a currently registered medical practitioner, your first exposure to reporting will be at the annual retention of your registration. The Annual Retention Application which you complete through your MyDoctor portal will have some greater detail regarding professional indemnity than previously.

The aim will be to guide you to the appropriate declaration through a series of questions. The flow chart below/attached shows the filtering questions and the appropriate declaration to be completed. Depending on the nature of your employment/practice arrangements you may also be required to furnish evidence that the correct level of cover is in place.

In order for the Council to ensure this process will operate as smoothly as possible, we are seeking your views on these draft rules and how we propose to implement them. We have provided a form for provision of feedback, with some guiding questions and also an area for other commentary.

Until the consultation process is completed, Council staff are not in a position to advise on personal circumstance, so we would ask all feedback be sent back to us on the form provided.

Important Elements or Reporting

For many doctors the only requirement will be to complete the appropriate declaration. On the online portal this will be “ticking the box” confirming you have read and will comply with the requirements. For some doctors, you will need to complete the declaration and then submit a copy of your indemnity cover certificate to the Council for verification you have indemnity cover appropriate to the nature of their employment/practice arrangement and the area of your practice.

There are two important elements to the declaration process:

1. All declarations set out the duty on you as doctor, to ensure you have appropriate indemnity cover in place at all times; so should your practice arrangements change you may need to update your cover.



2. Where a doctor cannot demonstrate they have the appropriate indemnity cover in place, the Council then has the power to remove the doctor from the Register until such time as the appropriate cover is in place. This will require an application to be restored to the Register with a fee currently of €825.

Identifying Healthcare Setting and Class of Doctor

The indemnity cover requirements introduces the need for the Council to understand where you are working and in what capacity.

Within the Rules there is a list of HSE hospitals as provided by the State Claims Agency, (a division of the National Treasury Management Agency). If you are working in one of these facilities **solely** you are only required to provide the Council with a declaration. The Council recognises this list is not complete and have made provision for doctors who are working for/being paid solely by the HSE to indicate if working in a HSE facility not listed, at numbers 73 and 74 on the list.

If as a doctor you need to put in place your own indemnity cover then you will need to ensure the cover is to the levels set by the State Claims Agency, and these are set out at Appendix A and Appendix B.

Declarations

There are a set of declarations for the three types of doctors who will need to complete a declaration:

1. First-time applicants (Shown at Schedule 1)
2. Registered doctors (Shown at Schedule 2)
3. Visiting EEA doctors (Shown at Schedule 3)

All declarations set out the duty on you as doctor, to ensure you have appropriate indemnity cover in place at all times; so should your practice arrangements change you may need to update your cover.