



<b>HEALTH PROFESSIONS LICENSING AUTHORITY</b>	
<b>TITLE:</b> Professional Indemnity Arrangements	
<b>EFFECTIVE DATE:</b> May 2004	<b>UPDATED:</b> May 2005; October 2008
<b>BOARD:</b> All Health Practitioner Registration Boards of the Northern Territory	

### **Purpose**

This policy has been developed to provide guidance to all health practitioners who apply for registration/enrolment/authorisation to practise in the Northern Territory, or who are seeking to renew their registration/enrolment/authorisation to practise.

### **Legislative requirements.**

Section 22(1)(e) of the *Health Practitioners Act 2004* (the Act) states that a person is entitled to be registered or enrolled or authorised to practise if they can satisfy the relevant Board that they have, amongst other things, “adequate professional indemnity arrangements in place”.

### **Background**

A Review of all the Acts that regulated health professionals in the Northern Territory was conducted during 1999 and 2000. The Review recognised that there is a strong public interest in professional indemnity arrangements being a requirement for registration/enrolment/authorisation to practise. The rationale being that if a patient/client is injured by a health practitioner in circumstances leading to an award of compensation to the patient/client, that health professional, through indemnity insurance or arrangements, should be able to meet the award of compensation.

The Northern Territory Government determined to include the requirement for professional indemnity arrangements in the new legislation. This new requirement is in line with legislation in other states and territories.

### **What is a professional indemnity arrangement?**

A professional indemnity arrangement is when an insurer agrees or an employer is obliged to indemnify a person, or persons working within an organisation for any legal liability owed to another person as a result of personal injury or property damage caused by the indemnified person.

### **What are “adequate professional indemnity arrangements”?**

Different health care professionals will require different levels of professional indemnity cover. For example, a medical specialist undertaking complex procedures that carry a higher likelihood of personal injury to the patient/client, may require a higher level of cover than say, an Aboriginal Health Worker or Nurse who delivers more routine care and undertakes less complex procedures.

The Boards will not stipulate what “adequate professional indemnity arrangements” are, rather every practitioner should reflect on their personal situation and determine that they have “adequate professional indemnity arrangements” in place in their particular circumstances.

### **Employment Status**

For those practitioners who are in an employer/employee relationship, the doctrine of “vicarious liability” will be applied. Vicarious liability means that an employer is liable for the wrongful act of its employees, even if the employer plays no part and has no knowledge of that act.

Those practitioners working for the Northern Territory Government are automatically indemnified for all actions undertaken in the usual course of their employment.

Employer usually indemnify practitioners who are employees, however there may still be a requirement for the practitioner to hold individual professional indemnity insurance. This needs to be discussed with the employer.

Self-employed and employer practitioners will need to ensure that adequate professional indemnity arrangements are in place and will need to seek advice.

To assist practitioners in considering whether they have adequate professional indemnity arrangements in place, the Boards encourage practitioners to consider:

- the practise setting;
- the type of services/care delivered;
- the patient/client group;
- advice from Professional Indemnity Insurers, Professional Associations and Unions; and
- their employment status.