



Indemnity for Queensland Health Medical Practitioners Human Resources Policy

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1 PURPOSE

The purpose of this policy is to outline the indemnity arrangements for medical practitioners engaged by Queensland Health when undertaking clinical management of patients or providing associated clinical services (including clinical governance, education and research).

2 APPLICATION

This policy applies to medical practitioners engaged by Queensland Health:

- to undertake clinical management of public patients (as defined in section 9), for example:
 - A medical practitioner is engaged by Queensland Health if they are an employee (including visiting medical officer (VMO) employees, medical officers in public health and government medical officers directly engaged by Queensland Health) or if they directly assist Queensland Health in the clinical management of public patients (such as a doctor assisting in an emergency retrieval of a public patient).
 - A medical practitioner operating under a joint appointment arrangement between Queensland Health and a university.
 - A medical practitioner required to travel interstate e.g. northern NSW, as directed by Queensland Health, to provide medical services to interstate patients, such as retrieval services.
- to undertake associated clinical services (as defined in section 9), for example:
 - A medical practitioner appointed as an investigator under part 6 of the *Health Services Act 1991* to investigate the clinical management of patients against stated terms of reference.
 - A medical practitioner engaged by Queensland Health who provides clinical advice to interstate hospitals/staff regarding the treatment of interstate patients or to general practitioners.
- undertaking clinical management of private patients (as defined in section 9) in the circumstances set out in attachment one, for example:
 - A medical practitioner engaged by Queensland Health Clinical and Statewide Services (CaSS) who provides commercial professional services on behalf of Queensland Health (whether provided to clients in Queensland, elsewhere in Australia, or overseas).

This policy also applies to a medical practitioner who has incurred legal liability or costs in the course of their employment with Queensland Health, whether or not the practitioner has continued in employment.

This policy does **not** apply to:

- contracted VMOs or medical practitioners directly engaged under any other type of contract for their services. These practitioners are to refer to their contract for their indemnity cover. If there is no indemnity clause, or the clause is unclear, the practitioner may apply for indemnity under section 7.11 of this policy.

- independent contractors or consultants providing services to Queensland Health (it is possible to specifically provide for indemnity in the contract for services), for example:
 - A contract for the provision of emergency department services at a public hospital between a private company and Queensland Health.
- medical practitioners unregistered without a valid reason, to the satisfaction of the Deputy Director-General, Corporate Services (DDGCS), as at the time of the performance of the services for which indemnity is sought.
- medical practitioners not credentialed without a valid reason, to the satisfaction of the authorised delegate, at the time of the performance of the services for which indemnity is sought.
- medical practitioners engaged by public sector agencies other than Queensland Health and not providing services for Queensland Health, for example:
 - Medical practitioners providing Government Medical Officer (GMO) services to the Police or Justice Departments.
- employees and other persons performing duties or functions on behalf of Queensland Health (refer to Indemnity for Queensland Health Employees and Other Persons HR Policy I3 for their indemnity cover).
- medical practitioners engaged by the Mater Misericordiae Health Services. Those practitioners are to refer to that organisation's policy on indemnity and any relevant agreements or contracts in place between Queensland Health and the operators of the Mater Misericordiae Health Services.

A decision that this policy does not apply to a medical practitioner for one of the reasons set out above is to be made by the DDGCS.

3 GUIDELINES

Guidelines may not be developed.

4 DELEGATION

The 'delegate' is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

5 REFERENCES

- *Health Services Act 1991*
- *Judicial Review Act 1991*
- *Commissions of Inquiry Act 1950*
- *Crime and Misconduct Act 2001*
- *Criminal Code Act 1899*
- *Public Sector Ethics Act 1994*
- *Personal Injuries Proceedings Act 2002*
- *Medical Practitioners Registration Act 2001*
- *Health Practitioners (Professional Standards) Act 1999*

- *Supreme Court of Queensland Act 1991 - Uniform Civil Procedure Rules*
- Health Professionals Registration – Medical Officers, Nurses and Other Health Professionals HR Policy B14
- Medical Superintendents – Role and Responsibilities HR Policy B8
- Requirements for Reporting Official Misconduct HR Policy E9
- Medical Fatigue Risk Management HR Policy I1
- Credentialing and Defining the Scope of Clinical Practice for Medical Practitioners in Queensland: A Policy and Resource Handbook 2009
- Informed Consent for Invasive Procedures Policy 14025 and other policies or Director-General administrative decisions regarding consent
- Queensland Health Research Management Policy and Framework 2008
- Ensuring Intended Surgery Policy 26961
- Public Service Commission Whole-of-government guideline for the grant of indemnities and legal assistance to state employees

6 SUPERSEDES

- IRM 3.8-4 Indemnity for Queensland Health and Other Approved Medical Practitioners

7 POLICY

Claims

7.1 Claims – Scope of indemnity

7.1.1 Medical practitioner engaged by health service district

Indemnity is to be provided for a claim against a medical practitioner when the medical practitioner was engaged by a health service district and the practitioner:

- undertook the clinical management or participated in research involving patient contact or responsibilities, which is the subject of the claim, in accordance with the medical practitioner's scope of practice as granted by the district chief executive officer (DCEO) on the recommendation of the relevant credentialing and scope of clinical practice committee
- participated in ongoing clinical audits and provided early notification of possible claims relating to the clinical management or participation in such research.

7.1.2 Medical practitioner engaged by Queensland Health in a statewide service or other than in a health service district

Indemnity is to be provided for a claim against a medical practitioner when the medical practitioner was employed in a statewide service or other than in a health service district and the practitioner:

- undertook the clinical management or participated in research involving patient contact or responsibilities, which is the subject of the claim, in accordance with the medical practitioner's scope of practice as granted by the chief executive officer (CEO) or chief health officer (CHO) on the recommendation of the relevant credentialing and scope of clinical practice committee

- participated in ongoing clinical audits and provides early notification of possible claims relating to the clinical management or other participation in such research.

7.1.3 Medical practitioner engaged by Queensland Health to perform associated clinical services (except patient research)

Indemnity is to be provided for a claim against a medical practitioner when the medical practitioner was engaged to perform associated clinical services, except for participation in research involving patient contact or responsibilities (refer sections 7.1.1 and 7.1.2). The medical practitioner is to have endeavoured to provide such services in a diligent and conscientious manner to the satisfaction of Queensland Health.

7.1.4 All medical practitioners

A medical practitioner is not to be excluded from the scope of this policy because they lack permission from a relevant delegate, if the relevant indemnity decision maker is satisfied as to the reason for not holding such permission.

Examples

- A resident medical officer (RMO) and a medical officer with right of private practice (MORPP) are covered by this policy if rostered on call or recalled specifically by Queensland Health to assist with an emergency clinical situation (for which the RMO or MORPP is not credentialed).
- A junior doctor who is not required to be credentialed and privileged is still covered by this policy.

7.2 Claims – method of indemnity

Queensland Health is to indemnify medical practitioners who are covered by this policy for:

- any damages awarded or negotiated in respect of a claim
- the costs of defending or settling the claim.

Queensland Health is not to seek any contribution from the medical practitioner in respect of the above amounts (subject to section 7.3).

Queensland Health is to appoint and instruct solicitors to conduct the defence of the claim on behalf of the medical practitioner and the medical practitioner is to cooperate fully with Queensland Health's solicitors in the conduct of the case.

Queensland Health may be required to respond to a matter as a defendant in addition to providing indemnity cover to a medical practitioner involved in the matter under the terms of this policy. In these instances Queensland Health is to take all reasonable steps to manage any potential conflict of interest and is to be mindful of the interests of the medical practitioner through all stages to the conclusion of a claim.

7.3 Claims – exclusions from indemnity

A medical practitioner is not to be entitled to indemnity for a claim when:

- the medical practitioner has been convicted of a criminal offence arising from the conduct that is the subject of the claim (except where the conviction has arisen out of an incident subject to section 7.6)
or
- the medical practitioner's conduct that is the subject of the claim has been proven, to the satisfaction of Queensland Health, to constitute wilful neglect.

Indemnity may be withdrawn when:

- any of the circumstances outlined above apply
or
- the medical practitioner does not cooperate fully with the solicitors appointed by Queensland Health to conduct the medical practitioner's defence
or
- details provided by the medical practitioner as part of the claim for indemnity are found to be incorrect or misleading such that the medical practitioner would not be covered by this policy

A decision that indemnity is unavailable or is to be withdrawn under this section is to be made by the DDGCS.

Review of decision to exclude from indemnity

When the medical practitioner is dissatisfied with the decision of the DDGCS to grant or withdraw indemnity, the practitioner may request a review of the decision be undertaken by the Director-General (DG) (refer section 8.1).

Legal representation/assistance

7.4 Scope of representation/assistance in respect of investigative agencies and the Medical Board of Queensland

Queensland Health is to appoint and instruct solicitors to provide legal representation for, and legal assistance to, a medical practitioner in relation to an appearance before, or the giving of evidence or information to, an investigative agency or the Medical Board of Queensland in connection with the clinical management of public patients or the provision of associated clinical services (or the clinical management of private patients in the limited circumstances set out in attachment one).

In relation to an investigation or an inquiry by a police service, reference is to be made to section 7.8.

Queensland Health is not to provide representation for, and legal assistance to, a medical practitioner for the purpose of initiating or continuing separate legal proceedings, including an action for defamation, by or on behalf of the medical practitioner in relation to, an appearance before, or the giving of evidence or information to an investigative agency or the Medical Board of Queensland, unless approval in writing has first been obtained from the Attorney-General.

Queensland Health may be required to respond to an investigative agency or the Medical Board of Queensland as a party in addition to providing representation to a medical practitioner responding to the investigative agency or the Medical Board of

Queensland under the terms of this policy. In these instances, Queensland Health is to take all reasonable steps to manage any potential conflict of interest and is to be mindful of the interests of the medical practitioner through all stages to the conclusion of the matter.

7.5 Representation/assistance – exclusions

A medical practitioner is not entitled to legal representation and assistance under section 7.4, or legal representation and assistance may be withdrawn, when:

- the medical practitioner has been convicted of a criminal offence arising from the conduct that is the subject of the appearance (except where the conviction has arisen out of an incident subject to section 7.6)
- the medical practitioner's conduct that is the subject of the appearance has been proven, to the satisfaction of Queensland Health, to constitute wilful neglect
- the medical practitioner is referred to the Professional Conduct Review Panel or the Health Practitioners' Tribunal by the Medical Board of Queensland (this exclusion is not to apply if a medical practitioner is referred by the Medical Board to the Professional Conduct Review Panel or the Health Practitioners' Tribunal on the basis of their professional practice in delivering a clinical service or an associated clinical service)
- the medical practitioner does not cooperate fully with the solicitors appointed by Queensland Health to represent the medical practitioner
- details provided by the medical practitioner to support representation are found to be incorrect or misleading such that the medical practitioner is not to be covered by this policy.

A decision that legal representation or assistance is unavailable or is to be withdrawn under this section is to be made by the DDGCS.

Review of a decision to exclude from representation/assistance

When the medical practitioner is dissatisfied with the decision that representation or assistance is unavailable or is withdrawn, the practitioner may request the DG review the determination (refer section 8.2).

7.6 Fatigue

When a medical practitioner engaged by Queensland Health is required by Queensland Health to continue working due to operational requirements, the medical practitioner is or may become fatigued. Legal assistance, representation, and indemnity are to be provided by Queensland Health at the request of the practitioner, when the incident subject of the claim would not have, on the balance of probabilities, occurred but for the fatigue. Written advice from an agreed independent fatigue management expert may be used to assess whether fatigue existed.

7.7 Recovery of costs

When under section 7.3 a medical practitioner has been convicted of a criminal offence, or wilful neglect has been proven against the medical practitioner, which arises from conduct which is also the subject of a claim, Queensland Health may in its discretion recover from the medical practitioner any amounts which were paid by Queensland Health under section 7.2 prior to the criminal conviction or allegation of wilful neglect having been proven.

If one of the exclusions under section 7.5 applies, Queensland Health may in its discretion recover any amounts from the medical practitioner which were paid by Queensland Health for representation/assistance under section 7.4 prior to the exclusion taking effect.

7.8 Police investigations and criminal offences

When a medical practitioner is investigated by a police service or other entity with responsibility for investigating offences, or is charged with a criminal offence, Queensland Health is to appoint and instruct solicitors to provide legal representation for, and legal assistance to, the medical practitioner to respond to the investigation or to defend the criminal charge, provided that:

- the investigation or charge arose out of the clinical management provided by the medical practitioner in accordance with the medical practitioner's scope of practice as granted by the DCEO, CEO, medical superintendent or CHO on the recommendation of the relevant credentialing and scope of clinical practice committee, or
- the investigation or charge arose out of the associated clinical services (refer definitions) provided by the medical practitioner, and the practitioner has endeavoured to provide such services in a diligent and conscientious manner to the satisfaction of Queensland Health

A medical practitioner is not entitled to representation or assistance under this section, or it may be withdrawn, if:

- the medical practitioner's conduct that is the subject of the charge has been proven, to the satisfaction of Queensland Health, to constitute wilful neglect or
- the medical practitioner does not cooperate fully with the solicitors appointed by Queensland Health to represent the medical practitioner or
- details provided by the medical practitioner to support representation are found to be incorrect or misleading such that the medical practitioner is not to be covered by this policy. or
- new information emerges which, if known to the DDGCS at the time of granting the application for legal assistance would have led to the DDGCS deciding not to grant legal assistance.

A decision that legal representation or assistance is unavailable or is to be withdrawn under this section is to be made by the DDGCS.

If a medical practitioner is convicted of a criminal offence, or one of the other exclusions under this section applies, Queensland Health may in its discretion recover from the medical practitioner any amounts which were paid by Queensland Health under this section prior to conviction or the exclusion taking effect.

This section does not extend to the provision of legal representation for, or legal assistance to, a medical practitioner for the purposes of appealing their conviction of a criminal offence.

Review of decision regarding police investigation or criminal offence

When the medical practitioner is dissatisfied with the decision that representation or assistance is unavailable or is withdrawn by the DDGCS, the practitioner may request the DG review the determination (refer section 8.4).

7.9 Reimbursement of criminal defence costs

If a medical practitioner is charged with a criminal offence relating to the clinical management of patients or associated clinical services covered by this policy, the medical practitioner may choose to seek their own legal representation to defend the charge.

Queensland Health is to provide reimbursement to the medical practitioner of the reasonable costs incurred by the medical practitioner in seeking their own legal representation to defend the criminal charge if:

- the charge arose out of the clinical management provided by the medical practitioner in accordance with permission granted by the DCEO, CEO, medical superintendent or CHO on the recommendation of the relevant credentialing and scope of clinical practice committee, or
- the charge arose out of the associated clinical services provided by the medical practitioner, and the practitioner has endeavoured to provide such services in a diligent and conscientious manner to the satisfaction of Queensland Health
- the medical practitioner is not committed for trial in respect of the charge after committal proceedings, or is acquitted of the charge at trial, or the charge is withdrawn or discontinued for any reason
- the medical practitioner's conduct the subject of the charge has not been proven, to the satisfaction of Queensland Health, to constitute wilful neglect.

An application for reimbursement of criminal defence costs is to be made to the DDGCS.

Review of decision regarding reimbursement of criminal defence costs

When the medical practitioner is dissatisfied with the decision of the DDGCS to not reimburse criminal defence costs or with the amount to be reimbursed, the practitioner may request a review of the decision be undertaken by the DG (refer section 8.3).

7.10 Medical practitioner responsibilities

It is the responsibility of the medical practitioner to keep the DCEO, CEO, medical superintendent or CHO informed of any change in circumstances which may affect indemnity cover under section 7.1 or representation/assistance under sections 7.4 and 7.8.

7.11 Other circumstances

It is not possible to provide for all circumstances when indemnity may be appropriate and there may be other circumstances when it is appropriate to provide an indemnity or an indication of whether an indemnity is to be extended.

An application for other circumstances indemnity is to be determined on a case-by-case basis by the DDGCS and is to be submitted through Corporate Counsel, Legal Unit. Some of the factors to be considered to determine the application are:

- whether the practitioner was acting, or is to act, under the direction of Queensland Health
- whether the activities undertaken by the practitioner were, or are to be, of benefit to Queensland Health
- the nature of the patient or service delivery
- the nature and extent of available underwriting or insurance.

Examples of when indemnity may be provided

- If a medical practitioner proposes to undertake an interstate clinical role or educational opportunity a determination of the indicative indemnity position can be made.
- The performance of research by a senior medical officer (SMO) option B practitioner involving a private patient.
- Advice provided by a Queensland Health medical practitioner to an external practitioner located overseas.
- Practitioners directly engaged under a contract for their services when the contract is unclear or silent on indemnity.
- A practitioner seeking representation before a body that has been excluded from the definition of investigative agency under this policy.
- A practitioner who attends an interstate or overseas public or private hospital, or Queensland private hospital, for the purposes of procuring organs for transportation.
- A practitioner who is required to travel overseas e.g. Papua New Guinea, to provide medical services to Australian or overseas patients, such as retrieval services.
- A practitioner who is a member of an ethics committee based in a public health facility assessing research for a private hospital or general practitioner, as requested by the authorised delegate. Reference is also to be made to the Queensland Health Research Management Policy and Framework 2008, or any replacement document dealing with substantially the same subject matter.

Review of other circumstances indemnity decision

When the medical practitioner is dissatisfied with the decision of the DDGCS to not provide indemnity in other circumstances, the practitioner may request a review of the decision be undertaken by the DG (refer section 8.5).

7.12 Defamation

This policy also applies to claims for defamation brought against medical practitioners covered by this policy. In accordance with whole-of-government policy, Queensland Health does not provide assistance to medical practitioners commencing defamation action against any other person or organisation.

7.13 Interaction with other policies

This policy interacts with other policies implemented by Queensland Health from time to time, and medical practitioners covered by this policy are expected to comply with those policies, for example:

- Requirements for Reporting Official Misconduct HR Policy E9
- Medical Fatigue Risk Management HR Policy I1
- Informed Consent for Invasive Procedures Policy 14025
- Ensuring Intended Surgery Policy 26961
- Queensland Health Research Management Policy and Framework 2008
- Human Resources Delegations Manual.

8 APPLYING THE POLICY

8.1 Processing indemnity claims

Application

When a medical practitioner undertaking clinical or associated clinical services first becomes personally aware of a claim in which they are named as a respondent/defendant, the practitioner is to submit a civil indemnity claim notification form (refer attachment two) to the DCEO, CEO or CHO within two working days after receipt of the claim.

Information provided in this claim is to accurately reflect the circumstances of the claim. Incorrect or misleading information which affects the application of this policy may lead to subsequent withdrawal of indemnity.

If the medical practitioner is not formally named as a respondent/defendant, they do not need to claim indemnity through this process, but are to comply with the usual practice of cooperating fully with Queensland Health's solicitors in the defence of the claim if requested.

Responsibilities of senior management

Within two working days of the receipt of a civil indemnity claim notification that appears accurate and complete in all particulars, the DCEO, CEO or CHO is to complete the civil indemnity confirmation/referral form (refer attachment three) to:

- confirm in writing to the medical practitioner that the practitioner is to be indemnified
or
- advise the medical practitioner in writing that the matter of indemnity has been referred to the DDGCS for further consideration.

When indemnity is referred for further consideration, the DCEO, CEO or CHO is to ensure Queensland Health's solicitors are instructed to take all appropriate legal action in respect of the claim pending the decision.

Upon receipt of an indemnity referral from a DCEO, CEO or the CHO, the DDGCS is to determine whether a medical practitioner is entitled to indemnity under this policy and is to complete the decision by DDGCS re civil indemnity claim form (refer attachment four) to notify the medical practitioner in writing of the decision within seven working days.

Review of indemnity claim decision

When the medical practitioner is dissatisfied with the determination made by the DDGCS, the practitioner may request a review by the DG.

In reviewing a determination the DG is to consult with the head of the medical staff association of the relevant Queensland Health facility at which the medical practitioner is engaged (or when there is no medical staff association, a peer nominated by the medical practitioner and agreed to by the DG).

In reviewing a determination regarding eligibility for indemnity for a medical practitioner arising out of an incident classified as associated clinical services, the DG is to consult with a supervisor or a clinician performance support service (CLiPSS) panel member nominated by the medical practitioner.

8.2 Processing representation before investigative agencies and the Medical Board of Queensland

Application

When a medical practitioner undertaking clinical or associated clinical services is required to appear before an investigative agency or the Medical Board of Queensland, the practitioner is to submit a request for legal assistance/representation in respect of an appearance before the Medical Board of Queensland or an investigative agency form (attachment five) to the DCEO, CEO or the CHO within two working days after personal receipt of the notice to appear.

Responsibilities of senior management

Within two working days of receipt of a request form that appears accurate and complete in all particulars, the DCEO, CEO or the CHO is to complete the legal assistance/representation in respect of an appearance before the Medical Board of Queensland or an investigative agency confirmation/referral form (attachment six) to:

- confirm in writing to the medical practitioner that legal representation and assistance by Queensland Health's solicitors is to be provided to the practitioner
or
- advise the medical practitioner in writing that the matter of legal assistance/representation has been referred to the DDGCS, depending on the

organisational unit in which the medical practitioner is primarily engaged, for further consideration.

If the matter of legal assistance or representation is referred as above for further consideration, the DCEO, CEO or the CHO is to ensure Queensland Health's solicitors are instructed to take all appropriate legal action in respect of the notice to appear pending the decision.

Upon receipt of a referral from the DCEO, CEO or the CHO, the DDGCS is to determine whether a medical practitioner is entitled to legal assistance or representation under this policy and complete the DDGCS decision re request for legal assistance/representation in respect of an appearance before the Medical Board of Queensland or an investigative agency form (attachment seven) to notify the medical practitioner in writing of the decision within seven working days.

Review of decision

If the medical practitioner is dissatisfied with the determination made by the DDGCS, the practitioner may request a review by the DG.

In reviewing a determination, the DG is to consult with the head of the medical staff association of the relevant Queensland Health facility at which the medical practitioner is engaged (or when there is no medical staff association, a peer nominated by the medical practitioner and agreed to by the DG).

In reviewing a determination regarding eligibility for legal representation for a medical practitioner arising out of an incident classified as associated clinical services, the DG is to consult with a supervisor or a clinician performance support service (CLiPSS) panel member nominated by the medical practitioner.

8.3 Processing criminal defence costs

Application

When a medical practitioner wishes to seek reimbursement of the reasonable costs incurred in defending a criminal charge, the practitioner is to submit an application for reimbursement of criminal defence costs form (attachment eight) to the DDGCS.

Responsibilities of senior management

The DDGCS is to complete the criminal defence costs decision form (attachment nine) to notify the medical practitioner in writing of the decision.

Review of decision

If the medical practitioner is dissatisfied with the determination made by the DDGCS, the practitioner may request a review by the DG.

If Queensland Health, through the DG and the medical practitioner are unable to reach agreement as to the amount of reasonable costs, the matter is to be referred for a final decision to an independent cost assessor chosen by the medical practitioner from a panel of assessors authorised by Queensland Health. Referral to a cost assessor is to be made at the expense of Queensland Health.

8.4 Processing police investigation and criminal offences

Application

When a medical practitioner is investigated by a police service or other entity with responsibility for investigating offences, or is charged with a criminal offence, the practitioner is to submit a specific offences indemnity claim notification form (refer attachment ten) to the DDGCS within two working days of being asked to respond to an investigation or being charged.

Responsibilities of senior management

The DDGCS is to complete the decision by DDGCS re specific offences indemnity claim form (attachment eleven) to notify the medical practitioner in writing of the decision within seven working days.

Review of decision

If the medical practitioner is dissatisfied with the determination made by the DDGCS, the practitioner may request a review by the DG.

In reviewing a determination the DG is to consult with the head of the medical staff association of the relevant Queensland Health facility at which the medical practitioner is engaged (or when there is no medical staff association, a peer nominated by the medical practitioner and agreed to by the DG).

8.5 Processing other circumstances claims

Application

A medical practitioner to whom this policy applies (refer section 2) may seek indemnity relating to other circumstances on a case-by-case basis. A medical practitioner, including a VMO, under any type of contract for service may seek indemnity under the other circumstances process on a case-by-case basis when the contract for service does not include an indemnity clause or the clause is unclear.

The medical practitioner is to submit an other circumstances indemnity claim notification form (refer attachment twelve) to Corporate Counsel, Legal Unit, Corporate Services Division within two working days of being charged. Upon receipt of the notification, Corporate Counsel is to inform the DDGCS.

Responsibilities of senior management

The DDGCS is to complete the decision by DDGCS re other circumstances indemnity claim form (attachment thirteen) to notify the medical practitioner in writing of the decision within seven working days.

Review of decision

If the medical practitioner is dissatisfied with the determination made by the DDGCS, the practitioner may request a review by the DG.

In reviewing a determination the DG is to consult with the head of the medical staff association of the relevant Queensland Health facility at which the medical practitioner is engaged (or when there is no medical staff association, a peer nominated by the medical practitioner and agreed to by the DG).

9 DEFINITIONS

<p>Associated clinical services</p>	<p>Services which draw on the clinical expertise and experience of a medical practitioner, and include, among others:</p> <ul style="list-style-type: none"> • clinical governance • undertaking a medical administration role, e.g. clinical CEO, executive director of medical services (EDMS) • participation in health research when the research protocol has been approved by Queensland Health on the advice of a duly constituted Human Research Ethics Committee (HREC) (whether as principal investigator or a member of the research team) • education and training related to or involving clinical management of public patients • membership of clinical committees, e.g. Ministerial advisory committee, credentialing and scope of clinical practice committee, HREC • observership activities connected with clinical management of public patients • the conduct of investigations into the clinical management of patients, e.g. as an investigator under part 6 of the <i>Health Services Act 1991</i>, membership of a whistleblower review panel. <p>(Full detail on research protocols is to be obtained from the Queensland Health Research Management Policy and Framework 2008 and associated standards).</p>
<p>Chief executive officer (CEO)</p>	<p>The manager of the organisational unit in which non-health service district medical practitioners directly engaged by Queensland Health are primarily engaged to undertake clinical management and/or associated clinical services, e.g. Clinical and Statewide Services, Chief Information Officer (CIO), Deputy Director-Generals (DDGs), and Queensland Centre for Healthcare Improvement.</p>
<p>Claim</p>	<p>Any demand made on the practitioner by a third party and would include:</p> <ul style="list-style-type: none"> • a letter of demand • a complaint to the Health Quality and Complaints Commission and • any pre-litigation process under the <i>Personal Injuries Proceedings Act 2002</i>, but excluding section 9A initial notices, as such notices do not constitute a demand.
<p>Clinical management</p>	<p>The diagnosis, care, advice, treatment, referral and follow-up of public patients and of private patients in the circumstances set out in attachment one.</p>
<p>Clinical management of public patients</p>	<p>The clinical management (procedural and non-procedural) of public patients, irrespective of the location in Queensland at which the clinical management is undertaken, and includes:</p> <ul style="list-style-type: none"> • advice provided to public patients as part of the consenting process

	<ul style="list-style-type: none"> • advice provided whilst on call or upon request from an authorised Queensland Health employee • clinical management of patients determined to be public patients at private facilities.
Clinical management of private patients	The clinical management (procedural and non-procedural) of private patients, and includes advice provided to private patients when there has been compliance with Queensland Health's consenting process.
Clinician performance support service panel (CLiPSS)	A group of medical practitioners selected to be a CLiPPS panel member to provide support to medical practitioners.
District chief executive officer (DCEO)	The manager of the health service district in which the medical practitioner is primarily engaged to undertake the clinical management of patients or to provide associated clinical services.
Investigative agency	<p>Any of the following entities:</p> <ul style="list-style-type: none"> • the Crime and Misconduct Commission • a commission under the <i>Commissioners of Inquiry Act 1950</i> • the Parliamentary Commissioner under the <i>Crime and Misconduct Act 2001</i> • a court (when the practitioner has received a subpoena or summons to appear) • the Anti-Discrimination Commission Queensland • the Ombudsman • the Guardianship and Administration Tribunal • the Adult Guardian • the Commission for Children and Young People and Child Guardian • the Auditor General and the Queensland Audit Office • a parliamentary committee of any State, Territory or Commonwealth Parliament • an investigation by a coroner of any State or Territory, including an inquest • any other State, Commonwealth or Territory body with investigatory or inquiry powers under a State, Commonwealth or Territory Act • any other investigative agency as determined by the director-general of Queensland Health. <p>but does not include:</p> <ul style="list-style-type: none"> • the Medical Board (as it is specifically provided for in the policy) • the Professional Conduct Review Panel (subject to section 7.5) • the Health Practitioners' Tribunal (subject to section 7.5) • the Health Quality and Complaints Commission (as this is included in the definition of claim) • a police investigation (as it is specifically provided

	<p>for in the policy)</p> <ul style="list-style-type: none"> a Queensland Health internal inquiry or investigation conducted by, e.g. the Ethical Standards Unit, human resources or an investigator appointed under part 6 of the <i>Health Services Act 1991</i>.
Medical superintendent	Includes Executive Director of Medical Services (EDMS) and District Director of Medical Services.
Reasonable costs	The legal professional costs and outlays of and incidental to the extension of the indemnity commensurate with what was required to provide adequate protection of legal rights or interests.
Wilful neglect	Malicious or reckless conduct that, if proven to the satisfaction of Queensland Health, would be a disciplinary breach providing reasonable grounds for terminating the practitioner's services.

10 HISTORY

December 2009	Deputy Premier and Minister for Health approved release of policy.
November 2009	Cabinet approved policy on 23 November 2009 (Cabinet decision no. 9101).
November 2009	This policy was developed as a result of the HR policy consolidation project and the review of the medical indemnity provisions for medical practitioners.
January 2003	IRM 3.8-4 Indemnity for Queensland Health and Other Medical Practitioners

Extent of indemnity for private patients

Medical practitioners	Indemnity cover for private patients	Effective date (if applicable)
Senior medical officers (SMO) Resident medical officers (RMO)	Full cover when the practitioner is undertaking the clinical management of the private patient on behalf of Queensland Health under an arrangement approved by Queensland Health. This includes any contractual arrangement in place between Queensland Health and a private facility. It also includes arrangements approved by the Medical Superintendent to support SMOs undertaking the clinical management of private patients under Option A or B, or in exigent circumstances where approval is given by the Medical Superintendent to support clinical management of a VMO's private patient.	
SMO option A	Full cover when the practitioner is undertaking the clinical management of the private patient on behalf of Queensland Health. This includes any contractual arrangement in place between Queensland Health and a private facility.	1 July 1992
SMO option B	Covered when within Queensland Health premises.	1 July 1996
SMO option P	Covered when providing private services as part of their duties for Queensland Health, irrespective of the location of the patient or the practitioner.	1 July 2000
Flying specialist services	Covered when within Queensland Health premises or consulting within their rooms (excluding private hospitals).	1 July 1997
Medical superintendents with right of private practice (MSRPP) and medical officers with right of private practice (MORPP)	Covered for private practice procedural work, on Queensland Health premises or in their private rooms, subject to the following: <ul style="list-style-type: none"> • The practitioner has complied with section 7.1.1, including being granted permission by the district CEO on the recommendation from the relevant credentialing and scope of clinical practice committee. The provision of services in Queensland public hospitals is consistent with the approved role delineation of the hospital's medical, surgical and support services.	1 July 1997
Visiting medical officers (VMO) (employees)	Covered for 'failure to warn' claims based upon consent obtained in the VMO's private rooms subject to the following conditions: <ul style="list-style-type: none"> • The patient is admitted as a public patient to a public hospital for the purpose of the clinical management to which the consent relates. • The practitioner has complied with section 7.1.1, including being granted permission to undertake clinical management to which the consent relates, by the district CEO on the recommendation of the relevant credentialing and scope of clinical practice committee. • The provision of advice about the nature and risks of the proposed clinical management and the obtaining of consent accord with Queensland Health policy at the relevant time (refer Informed Consent for Invasive Procedures protocols). 	17 June 2002

Attachment One HR Policy I2

December 2009

Medical practitioners	Indemnity cover for private patients	Effective date (if applicable)
<p>Rural general practitioners who enter into an indemnity cover agreement with Queensland Health as per attachment fourteen.</p>	<p>Covered for private procedural work in Queensland public hospitals (and on-call work as agreed with Queensland Health) subject to the following:</p> <ul style="list-style-type: none"> • The practitioner participates in on call rosters as agreed with Queensland Health. • The practitioner has complied with section 7.1.1, including undertaking the private procedural work in accordance with Queensland Health's Credentialing and Defining the Scope of Clinical Practice for Medical Practitioners in Queensland: A Policy and Resource Handbook 2009, or any replacement document dealing with substantially the same subject matter. • The procedures undertaken are consistent with the approved role delineation of the hospital's medical, surgical and support services. • The practitioner complies with Queensland Health's policies and procedures. <p>The practitioner enters into an indemnity cover agreement with Queensland Health in relation to these conditions (refer Attachment Fourteen).</p>	<p>17 June 2002</p>
<p>Reliever – full-time salaried medical officer, including RMOs, when directed to relieve MS/MORPPs</p>	<p>Covered for all private practice, whether performed within Queensland Health facilities or not, when required to fully relieve the MSRPP and MORPP.</p>	
<p>University employees</p>	<p>Covered for attendance as part of public hospital duties. This includes the clinical management of private patients in public hospitals (by consultation upon request) when no fee is raised.</p>	
<p>Unpaid/voluntary/honorary</p>	<p>Covered for attendance as part of public hospital duties. This includes the clinical management of private patients in public hospitals when no fee is raised.</p>	
<p>Researcher engaged by Queensland Health</p>	<p>Covered for research activities as part of public hospital duties. This includes research involving private patients in public hospitals when no fee is raised. Refer Queensland Health Research Management Policy and Framework 2008, or any replacement document dealing with substantially the same subject matter, and associated standards for full details regarding research.</p>	
<p>Other relievers</p>	<p>Covered for attendance as part of public hospital duties. This includes the clinical management of private patients in public hospitals when no fee is raised.</p>	
<p>Medical practitioners engaged by Queensland Health who undertake Queensland Health approved training courses or programs involving the clinical management of private patients, either in public or private facilities</p>	<p>Covered as if the clinical management were clinical management provided to a public patient.</p>	

Statement by medical practitioner

- 1. I have / have not been convicted of a criminal offence in relation to this matter.
- 2. I am / am not aware of any allegations of wilful neglect having been proved against me in relation to this matter.
- 3. I have permission from the Credentialing and Scope of Clinical Practice Committee of the hospital/health facility named above to perform the health service the subject of the claim OR
 I do not have permission from the Credentialing and Scope of Clinical Practice Committee of the hospital/health facility named above to perform the health service the subject of the claim because
.....
.....
.....
.....
.....
- 4. I agree to participate in clinical audits in the performance of my clinical services for Queensland Health.
- 5. I have attached a copy of the notice/claim/other relevant document to this notification in which I am named as a respondent or defendant*.
- 6. I agree to provide any further information requested by Queensland Health and to keep Queensland Health informed of any change in circumstances which may affect indemnity.

Medical practitioner's signature: **Date:**/...../.....

NOTE TO MEDICAL PRACTITIONER - This form is to be submitted to your District Chief Executive Officer (DCEO), CEO or the Chief Health Officer (CHO) within two working days after personal receipt of the notice/claim along with a copy of the notice/claim/other relevant documentation.

** 'Named as a respondent or defendant' does not simply mean that you are mentioned somewhere in the claim document - in the case of a PIPA notice you must be identified as a respondent on the front cover, or in the case of a Supreme/District/Magistrates claim you must be named as a defendant.*

Civil indemnity confirmation/referral form

To: (name of medical practitioner)

Re claim made by: (name of claimant/patient)

I confirm that Queensland Health will indemnify you in respect of the claim mentioned above, on the terms set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 ("the Policy").

Indemnity includes any damages that may be awarded or negotiated in respect of the claim and the costs of defending or settling the claim and Queensland Health will not seek to exercise any claim for contribution from you in respect of the claim, subject to section 7.3 of the Policy.

Queensland Health's solicitors will respond to and conduct the defence of the claim on your behalf and you must assist the solicitors in the conduct of the case.

I have referred the Indemnity Claim Notification in this matter to the Deputy Director-General Corporate Services (DDGCS) for further consideration. The DDGCS will respond to you in writing within 7 working days of receipt of this form.

In the meantime I have instructed the District's solicitors to take all appropriate legal action in respect of the claim, including legal action on your behalf.

Delegate's signature:

Name:

Title:

Date:/...../.....

Note to delegate:

Decision to be made within two working days of receiving the civil indemnity claim notification form

If you have confirmed indemnity:

- 1. Give the applicant medical practitioner the original of this signed and dated form.
2. Retain a copy on your file along with the medical practitioner's claim notification.
3. Send a copy of the notification and confirmation/referral form to Corporate Counsel, Legal Unit, Corporate Services Division.
4. Notify the panel firm that is acting for the district/division that indemnity has been confirmed for the medical practitioner.

If you have referred the matter to the DDGCS:

- 1. Give the applicant medical practitioner the original of this signed and dated form.
2. Send a copy of this form, plus a copy of the medical practitioner's claim notification and supporting documentation, to the DDGCS.
3. Retain a copy of this form and the medical practitioner's claim notification on your file.
4. Notify the panel firm that is acting for the district/division that the matter has been referred to the DDGCS for a decision but that it is in order for the firm to represent the medical practitioner in the interim.

Decision by Deputy Director-General Corporate Services
re civil indemnity claim

To: (name of medical Practitioner)

Re claim made by: (name of claimant/patient)

I confirm that Queensland Health will indemnify you in respect of the claim mentioned above, on the terms set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (the Policy).

Indemnity includes any damages that may be awarded or negotiated in respect of the claim and the costs of defending or settling the claim and Queensland Health will not seek to exercise any claim for contribution from you in respect of the claim, subject to section 7.3 of the Policy.

Queensland Health's solicitors will respond to and conduct the defence of the claim on your behalf and you must assist the solicitors in the conduct of the case.

I have determined that you are not eligible to be indemnified in respect of the claim mentioned above, for the following reason/s:

The policy does not apply to you (refer section 2 of the policy) because:

.....
.....
.....

You did not perform the health service the subject of the claim in accordance with permission granted by the relevant Credentialing and Scope of Clinical Practice Committee.

You have been convicted of a criminal charge arising from your conduct which is the subject of the claim.

I am satisfied that your conduct which is the subject of the claim has been proven to constitute wilful neglect under the policy.

You have not been named as a respondent or defendant to the claim.

You have not fulfilled the condition/s contained in attachment one of the Policy, namely

.....
.....
.....

Other.....

If you are dissatisfied with my decision in this matter, you may refer the matter to the Director-General for review. In the meantime you should obtain your own legal representation to respond to the claim as the district's solicitors will no longer be able to act for you.

.....
Deputy Director-General Corporate Services

Date:/...../.....

Note to DDGCS:

After you have made a decision:

1. Return this signed and dated form to the applicant medical practitioner **within seven working days** advising of the decision to provide/not provide indemnity.
2. Retain a copy of this form and the associated documentation on your file.
3. Copies of this form are to be sent to the District CEO, CEO or CHO and Corporate Counsel, Legal Unit.

Note to District CEO, CEO or CHO:

When you have received a copy of the DDGCS decision:

1. Retain a copy on your file.
2. Notify the panel firm that is acting for the district/division of the DDGCS decision. If the decision is that the medical practitioner is not eligible for indemnity, you are to instruct the panel firm to discontinue acting for the medical practitioner.

Statement by medical practitioner

1. I have / have not been convicted of a criminal offence in relation to this matter.
2. I am /am not aware of any allegations of wilful neglect having been proven against me in relation to this matter.
3. I am /am not aware that my conduct in respect of this matter has been referred to an investigative agency or the Medical Board of Queensland by the General Manager, Health Services.
4. I am / am not aware that I have been referred to the Professional Conduct Review Panel or the Medical Tribunal by the Medical Board of Queensland in respect of this matter.
5. I have attached a copy of the subpoena/summons/notice to appear/other relevant documentation to this request.
6. I agree to provide any further information requested by Queensland Health and to keep Queensland Health informed of any change in circumstances which may affect indemnity.

Medical practitioner's signature: Date:/...../.....

NOTE TO MEDICAL PRACTITIONER - This form is to be submitted to your District Chief Executive Officer (DCEO), CEO or the Chief Health Officer (CHO) within two working days after personal receipt of the notice to appear along with a copy of the subpoena/summons/notice to appear/other relevant documentation.

**Legal assistance/representation in respect of an appearance before the
Medical Board of Queensland or an investigative agency
confirmation/referral form**

To: (name of medical practitioner)

Re request for legal assistance/representation in respect of an investigation or proceedings by:

..... (specify investigative body or proceedings)

in relation to: (name of claimant/patient)

I confirm that Queensland Health will appoint and instruct solicitors to provide legal assistance and representation to you in respect of the investigation or proceedings mentioned above, on the terms set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (the Policy).

Queensland Health's solicitors will provide legal assistance and representation to you in respect of the investigation or proceedings.

Subject to section 7.2 of the Policy, Queensland Health will not seek to exercise any claim for contribution from you in respect of the amounts agreed to be paid by Queensland Health.

I have referred your request for legal assistance/representation in this matter to the Deputy Director-General, Corporate Services for further consideration. The Deputy Director-General, Corporate Services will respond to you in writing within 7 days of receipt of this form.

Delegate's signature:

Name:

Title:

Date:/...../.....

NOTE TO District CEO/CEO/CHO

Decision to be made within two working days of receiving request form.

If you have confirmed that legal assistance/representation will be provided to the medical practitioner:

1. Give the applicant medical practitioner the original of this signed and dated form.
2. Retain a copy on your file with the medical practitioner's request for legal assistance/representation.
3. Send a copy of the request for legal assistance/representation and the confirmation/referral form to Corporate Counsel, Legal Unit, Corporate Services Division.
4. Appoint a panel firm to act for the medical practitioner.

If you have referred the matter to the Deputy Director-General, Corporate Services:

1. Give the applicant medical practitioner the original of this signed and dated form.
2. Send a copy of this form, plus a copy of the medical practitioner's request for legal assistance/representation, to the Deputy Director-General, Corporate Services.
3. Retain a copy on your file.

Decision by Deputy Director-General Corporate Services
re request for legal assistance/representation in respect of an appearance
before the Medical Board of Queensland or an investigative agency

To: (name of medical practitioner)

Re request for legal assistance/representation in respect of an investigation or proceedings by:

..... (specify investigative body or proceedings)

in relation to: (name of claimant/patient)

I confirm that Queensland Health will appoint and instruct solicitors to provide legal assistance and representation to you in respect of the investigation or proceedings mentioned above, on the terms set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (the Policy).

Queensland Health's solicitors will provide legal assistance and representation to you in respect of the investigation or proceedings.

Subject to section 7.2 of the Policy, Queensland Health will not seek to exercise any claim for contribution from you in respect of the amounts agreed to be paid by Queensland Health.

I have determined that you are not eligible for legal assistance and representation in respect of the investigation or proceedings mentioned above, for the following reason/s:

The Policy does not apply to you (see sections 2 and/or 7.5 of the Policy) because:

.....
.....

You have been convicted of a criminal offence arising from your conduct which is the subject of the investigation or proceedings.

I am satisfied that your conduct which is the subject of the investigation or proceedings has been proven to constitute wilful neglect under the Policy.

Your conduct the subject of the investigation or proceedings was referred to the relevant investigative agency.

Your conduct the subject of the investigation or proceedings was referred to the Medical Board.

You have been referred to the Professional Conduct Review Panel or the Medical Tribunal by the Medical Board of Queensland.

Other.....

If you are dissatisfied with my decision in relation to this request, you may refer to the matter to the Director-General for review. In the meantime, you should obtain your own legal assistance/representation as the District's/Division's solicitors will no longer be able to provide assistance/representation.

.....
Deputy Director-General Corporate Services

Date:/...../.....

NOTE DDGCS

Decision to be made within seven working days of receiving referral form.

After you have made a decision:

1. Return this signed and dated form to the applicant medical practitioner.
2. Retain a copy of this form and associated documentation on your file.
3. Send a copy of this form to the District CEO, CEO or CHO and Corporate Counsel, Legal Unit.

NOTE TO District CEO/CEO/CHO

When you have received a copy of the Deputy Director-General Corporate Services decision:

1. Retain a copy on your file.
2. If the decision is that legal assistance/representation is to be made available to the medical practitioner, you are to appoint a panel firm to act for the medical practitioner.

Application for reimbursement of criminal defence costs

Medical practitioner seeking reimbursement

Surname:.....**Given names:**

Type of appointment or position:

- | | | | |
|----------------------------------|--------------------------|---|--------------------------|
| VMO – employed | <input type="checkbox"/> | MORPP (includes relieving MORPP) | <input type="checkbox"/> |
| VMO – contracted | <input type="checkbox"/> | GMO (working for QH not another agency
eg Police, Corrective Services) | <input type="checkbox"/> |
| SMO – Option A | <input type="checkbox"/> | Salaried doctor | <input type="checkbox"/> |
| SMO – Option B | <input type="checkbox"/> | Accredited rural GP (proceduralist) | <input type="checkbox"/> |
| SMO – Option P | <input type="checkbox"/> | University clinician | <input type="checkbox"/> |
| Flying Specialist | <input type="checkbox"/> | Other (please specify) | <input type="checkbox"/> |
| MSRPP (includes relieving MSRPP) | | | |

Details of criminal charge brought against the medical practitioner: *(If insufficient space, please attach additional pages)*

.....

Hospital/health facility where incident the subject of the charge occurred:

.....

Name of patient/other person involved in incident:

.....

Public patient Private patient Date of incident/...../.....

Statement by medical practitioner

- The criminal charge in respect of which I am seeking reimbursement of defence costs arose out of the performance of my clinical services for Queensland Health.
- I have been acquitted of the charge.
- After a committal hearing, I was not committed for trial on the charge.
- The charge was withdrawn or discontinued prior to trial.
- My conduct which was the subject of the charge has not been proven to constitute wilful neglect.
- I attach copies of all invoices and receipts for legal costs paid to my lawyers in respect of the defence of the charge.

The amount of legal costs I wish to be reimbursed is: \$..... *(insert amount)*.

I agree to provide any further information requested by Queensland Health.

Medical practitioner's signature: Date:/...../.....

NOTE TO MEDICAL PRACTITIONER

This form is to be submitted to the Deputy Director-General Corporate Services along with a copy of relevant documents relating to the criminal charge.

Decision re claim for reimbursement of criminal defence costs

To:..... (name of medical Practitioner)

- I confirm that Queensland Health will reimburse you the amount claimed in your Application for Reimbursement of Criminal Defence Costs.
I advise that Queensland Health will reimburse you an amount of \$..... (insert amount) which I consider to be a reasonable amount of costs.
I have determined that you are not eligible to be reimbursed your criminal defence costs, for the following reason/s:
The charge did not arise out of the performance of your clinical services, or associated clinical services, for Queensland Health.
The patient was a private patient for which you are not eligible for indemnity under the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (refer attachment one).
The criminal charge has not been finally resolved at this time.
I am satisfied that your conduct which was the subject of the criminal charge has been proven to constitute wilful neglect.
Other.....

If you are dissatisfied with my decision in this matter, or with the amount of costs which I have determined to be reasonable, you may refer the matter to the Director-General. When there is disagreement regarding the amount of reasonable costs, the matter will be referred to an independent cost assessor (nominated by yourself from a panel of cost assessors) to make a determination. The cost assessor's fees will be payable by Queensland Health.

.....
Deputy Director-General Corporate Services

Date:/...../.....

NOTE TO DDGCS

After you have made this decision:

- 1. Return this signed and dated form to the applicant medical practitioner.
2. Retain a copy of this form and associated documents on your file.
3. Forward a copy to Corporate Counsel, Legal Unit.

Specific offences indemnity claim notification

(This form is **only** to be used when a medical practitioner is being investigated by a police service (or similar investigative entity) or has been charged with a criminal offence)

Medical practitioner claiming indemnity

Surname:.....**Given names:**

Type of appointment or position:

- | | | | |
|----------------------------------|--------------------------|--|--------------------------|
| VMO – employed | <input type="checkbox"/> | MORPP (includes relieving MORPP) | <input type="checkbox"/> |
| VMO – contracted | <input type="checkbox"/> | GMO (working for QH not another agency,
e.g. police, corrective services) | <input type="checkbox"/> |
| SMO – option A | <input type="checkbox"/> | Salaried doctor | <input type="checkbox"/> |
| SMO – option B | <input type="checkbox"/> | Accredited rural GP (proceduralist) | <input type="checkbox"/> |
| SMO – option P | <input type="checkbox"/> | University clinician | <input type="checkbox"/> |
| Flying Specialist | <input type="checkbox"/> | Other (please specify) | <input type="checkbox"/> |
| MSRPP (includes relieving MSRPP) | <input type="checkbox"/> | | |

Details of investigation or criminal charge brought against the medical practitioner: *(If insufficient space, please attach additional pages)*

.....

Hospital/health facility where incident the subject of the investigation/charge occurred:

.....

Name of patient/other person involved in incident:

.....

Public patient Private patient Date of incident/...../.....

Statement by medical practitioner

1. I have permission from the Credentialing and Scope of Clinical Practice Committee of the hospital/health facility named above to perform the health service the subject of the investigation/charge OR
2. I do not have permission from the Credentialing and Scope of Clinical Practice Committee of the hospital/health facility named above to perform the health service the subject of the investigation/ charge because

.....

3. Where the investigation/charge relates to a termination of pregnancy, I did first obtain the consent of the patient using the Consent for Termination of Pregnancy Form (or such other form as replaces or amends it).

4. I agree to cooperate fully with the solicitors appointed by Queensland Health to represent me.

5. I am / am not aware of any allegations of wilful neglect having been proven against me in relation to this matter.

6. I agree to participate in clinical audits in the performance of my clinical services for Queensland Health.

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- 7. I have attached a copy of the complaint/summons/other relevant document to this notification in which I am named as a respondent or defendant
- .
- 8. I agree to provide any further information requested by Queensland Health and to keep Queensland Health informed of any change in circumstances which may affect indemnity.

Medical practitioner's signature: **Date:**/...../.....

NOTE TO MEDICAL PRACTITIONER - This form is to be submitted to the Deputy Director General Corporate Services (DDGCS) within two working days after personal receipt of the complaint/summons/charge along with a copy of the complaint/summons/other relevant documentation.

Decision by Deputy Director-General Corporate Services re specific offences indemnity claim

To: (name of medical Practitioner)

Re investigation/charge (details):

.....

I confirm that Queensland Health will indemnify you in respect of the investigation/charge mentioned above, on the terms set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (the Policy).

Queensland Health's solicitors will assist in your response to, and conduct the defence of, the investigation/charge on your behalf and you must assist the solicitors in the conduct of the case.

I have determined that you are not eligible to be indemnified in respect of the investigation/charge mentioned above, for the following reason/s:

The Policy does not apply to you (refer section 2 of the Policy) because:

.....

You did not perform in accordance with your scope of practice as granted by the DCEO, CEO, medical superintendent or CHO on the recommendation of the relevant Credentialing and Scope of Clinical Practice Committee.

Where the investigation/charge relates to a termination of pregnancy, you did not first obtain the consent of the patient using the Consent for Termination of Pregnancy Form (or such other form as replaces or amends it).

Your conduct that is the subject of the investigation/charge has been proven, to the satisfaction of Queensland Health, to constitute wilful neglect.

You are not cooperating fully with the solicitors appointed by Queensland Health to represent you.

The details provided by you to support representation are found to be incorrect or misleading such that you are not to be covered by the Policy.

Other.....

If you are dissatisfied with my decision in this matter, you may refer the matter to the Director-General for review. In the meantime you should obtain your own legal representation to respond to the investigation/charge as the district's solicitors will no longer be able to act for you.

Deputy Director-General Corporate Services

Date:/...../.....

Note to DDGCS:

After you have made a decision:

- 1. Return this signed and dated form to the applicant medical practitioner within seven working days advising of the decision to provide/not provide indemnity.
2. Retain a copy on your file.
3. Copies of the form are to be sent to the district CEO, CEO or CHO and Corporate Counsel, Legal Unit.

Note to District CEO, CEO or CHO:

When you have received a copy of the DDGCS decision:

1. Retain a copy on your file.
2. Notify the panel firm that is acting for district/division of the DDGCS decision. If the decision is that the medical practitioner is not eligible for indemnity, you are to instruct the panel firm to discontinue acting for the medical practitioner.

Statement by medical practitioner

- 7. I have / have not been convicted of a criminal offence in relation to this matter.
- 8. I am / am not aware of any allegations of wilful neglect having been proved against me in relation to this matter.
- 9. I have permission from the Credentialing and Scope of Clinical Practice Committee of the hospital/health facility named above to perform the health service the subject of the claim OR
 I do not have permission from the Credentialing and Scope of Clinical Practice Committee of the hospital/health facility named above to perform the health service the subject of the claim because
.....
.....
.....
- 10. I agree to participate in clinical audits in the performance of my clinical services for Queensland Health.
- 11. I have attached a copy of the notice/claim/other relevant document to this notification in which I am named as a respondent or defendant*.
- 12. I agree to provide any further information requested by Queensland Health and to keep Queensland Health informed of any change in circumstances which may affect indemnity.

Medical practitioner's signature: **Date:**/...../.....

NOTE TO MEDICAL PRACTITIONER - This form is to be submitted to Corporate Counsel, Legal Unit for the attention of the Deputy Director General Corporate Services (DDGCS) within two working days after personal receipt of the notice/claim along with a copy of the notice/claim/other relevant documentation.

** 'Named as a respondent or defendant' does not simply mean that you are mentioned somewhere in the claim document - in the case of a PIPA notice you must be identified as a respondent on the front cover, or in the case of a Supreme/District/Magistrates claim you must be named as a defendant.*

Decision by Deputy Director-General Corporate Services
re other circumstances indemnity claim

To: (name of medical practitioner)

Re claim made by: (name of claimant/patient)

I confirm that Queensland Health will indemnify you in respect of the claim mentioned above, on the terms set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (the Policy).

Indemnity includes any damages that may be awarded or negotiated in respect of the claim and the costs of defending or settling the claim and Queensland Health will not seek to exercise any claim for contribution from you in respect of the claim, subject to sections 7.3 and 7.11 of the Policy.

Queensland Health's solicitors will respond to and conduct the defence of the claim on your behalf and you must assist the solicitors in the conduct of the case.

I have determined that you are not eligible to be indemnified in respect of the claim mentioned above, for the following reason/s:

The policy does not apply to you (refer section 2 of the policy) because:

.....
.....
.....

You did not perform the health service the subject of the claim in accordance with permission granted by the relevant Credentialing and Scope of Clinical Practice Committee.

You have been convicted of a criminal charge arising from your conduct which is the subject of the claim.

I am satisfied that your conduct which is the subject of the claim has been proven to constitute wilful neglect under the policy.

You have not been named as a respondent or defendant to the claim.

You have not fulfilled the condition/s contained in attachment one of the Policy, namely

.....
.....
.....

Other.....

If you are dissatisfied with my decision in this matter, you may refer the matter to the Director-General for review. In the meantime you should obtain your own legal representation to respond to the claim as the district's solicitors will no longer be able to act for you.

.....
Deputy Director-General Corporate Services

Date:/...../.....

Note to DDGCS:

After you have made a decision:

1. Return this signed and dated form to the applicant medical practitioner **within seven working days** advising of the decision to provide/not provide indemnity.
2. Retain a copy on your file.
3. Copies of the form are to be sent to the district CEO, CEO or CHO and Corporate Counsel, Legal Unit.

Note to District CEO, CEO or CHO:

When you have received a copy of the DDGCS decision:

1. Retain a copy on your file.
2. Notify the panel firm that is acting for district/division of the DDGCS decision. If the decision is that the medical practitioner is not eligible for indemnity, you are to instruct the panel firm to discontinue acting for the medical practitioner.

Indemnity cover agreement

BETWEEN: State of Queensland acting through the Department of Health ('Queensland Health');

AND: ('the medical practitioner').

BACKGROUND

- A. Queensland Health provides indemnity to medical practitioners who perform clinical and other associated clinical services on Queensland Health's behalf pursuant to the Indemnity for Queensland Health Medical Practitioners HR Policy I2 ('the Policy') which is an internal departmental policy.
B. On 17 June 2002, Queensland Health agreed to extend the Policy to make indemnity available for rural general practitioners undertaking private procedural work in public hospitals, on condition that the medical practitioner enter into an Indemnity Cover Agreement with Queensland Health.
C. The medical practitioner is a rural general practitioner who undertakes private procedural work in public hospitals.

AGREED TERMS:

1. In this Agreement:

' Agreement' means this Indemnity Cover Agreement;

- 'claim' means any civil claim or demand on the medical practitioner that relates to the covered work and includes a complaint to the Health Rights Commission or any pre-litigation process under the Personal Injuries Proceedings Act 2002; and
'covered work' means the private procedural work agreed between the medical practitioner and Queensland Health to be performed in a public hospital (or other health facility approved in writing by Queensland Health).

2. The medical practitioner agrees to:

- (a) participate in on-call rosters for Queensland Health, such rosters to be agreed between Queensland Health and the medical practitioner;
(b) notify Queensland Health as early as possible of any potential or possible claims against the medical practitioner in respect of the covered work and provide all such details and information as Queensland Health may require in respect of any claim;
(c) participate and cooperate in any clinical audits of the covered work that may be required by Queensland Health from time to time;
(d) ensure that the covered work is consistent with the approved role delineation of the relevant hospital's medical, surgical and support services; and
(e) perform the covered work in accordance with permission granted by the relevant Credentialing and Scope of Clinical Practice Committee for the hospital (or relevant Division).

3. Subject to the medical practitioner complying with the conditions contained in clause 2, Queensland Health agrees to provide indemnity to the medical practitioner on the terms and conditions set out in the Indemnity for Queensland Health Medical Practitioners HR Policy I2 (as amended from time to time).

.....
Signed by the medical practitioner

...../...../..... (date)

.....
Signed on behalf of Queensland Health
by District Chief Executive Officer

...../...../..... (date)