

Broker Notice

Broker Notice - Vero Profin Medical Malpractice Civil Liability Insurance for Healthcare Establishments V7363 01/12/08A

Vero Profin has created a Medical Malpractice Civil Liability Insurance Policy for Healthcare Establishments and will be converting current qualifying accounts from our Professional Indemnity wording to this new wording.

To assist you in comparing our new Medical Malpractice policy wording with our existing PI policy wording we have prepared a guide to the main changes.

Note that the comparison does not take account of any endorsements that may currently apply to our existing PI policy.

The comparison provides a summary of differences in cover between the two wordings only and does not constitute advice in relation to the policies. You should still refer to the policies to identify the full terms, conditions and limitations on cover. The policies can be accessed on our website veroprofin.com.au. The cover offered to you may vary from that described. This comparison is current as at 23 February 2009, but is subject to change if the policies change.

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Definitions		
Claim		Has additional specific meanings under certain extensions
Defence Costs	Used to be called 'Insured Costs'	
Healthcare Services	Used to be called 'Professional Services'	
Inquiring Body	means a court, tribunal or legally constituted industry or professional board	means a coroner's court, tribunal or legally constituted industry or professional board
Inquiry Costs	means necessary and reasonable legal costs and expenses incurred by the Insured arising out of any notice requiring the Insured's attendance at an inquiry or hearing held before an Inquiring Body.	means necessary and reasonable legal costs and expenses incurred by the Insured arising out of any notice from an Inquiring Body requiring a response from the Insured or requiring the Insured's attendance at an inquiry or hearing held before the Inquiring Body.
Insuring Clause	Incorporates a retroactive exclusion	The retroactive exclusion is now an Exception
Limit of Indemnity	An aggregate Limit of Indemnity with an Automatic Reinstatement	The Limit of Indemnity applies to any one Claim and the Maximum Aggregate Limit of Indemnity applies to all Claims

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Clarifications		
Privacy	Not included	Included
Extensions	A number of extensions were automatic unless otherwise stated	All extensions need to be included in the Schedule before they will apply
Automatic Reinstatement	Included	When the Maximum Aggregate Limit of indemnity is twice the Limit of Indemnity this is the same as giving an Automatic Reinstatement.
Compensation for Court Attendance	Not included	Included
Dishonesty of Employees	Included	Included and also covers Medicare Benefits Fraud (new definition of Medicare Benefits Fraud)
Extended Reporting Period	Not included	Included
Fidelity	Not included	Included; new definitions of Fidelity Claim and Fidelity Excess
Good Samaritan Acts	Not included	Included
Inquiry Costs	<p>The Insurer may, if it considers it reasonable to do so, indemnify the Insured for Inquiry Costs.</p> <p>Provided that:</p> <p>(a) the notice requiring the Insured’s attendance at the inquiry or hearing is first received by the Insured and notified to the Insurer during the Period of Insurance; and</p> <p>(b) such attendance arises directly from conduct allegedly committed by the Insured in carrying on their Professional Services; and</p> <p>(c) such indemnity is subject to the written consent of the Insurer prior to the incurring of the Inquiry Costs; and</p> <p>(d) regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity; and</p> <p>(e) the total liability of the Insurer under this clause shall not exceed \$100,000 during the Period of Insurance.</p>	<p>The Insurer will indemnify the Insured for Inquiry Costs. Provided that:</p> <p>(a) the notice requiring the Insured’s response or attendance is first received by the Insured and notified to the Insurer during the Period of Insurance; and</p> <p>(b) such response or attendance arises directly from conduct allegedly committed by the Insured in carrying on their Healthcare Services; and</p> <p>(c) such indemnity is subject to the written consent of the Insurer prior to the incurring of the Inquiry Costs; and</p> <p>(d) regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity; and</p> <p>(e) the total liability of the Insurer for all Inquiry Costs under this Extension will not exceed in the aggregate, during the Period of Insurance, the Inquiry Costs Limit specified in the Schedule.</p> <p>If there is an entitlement to indemnity for Inquiry Costs for an inquiry or hearing under the Molestation Defence Costs and Inquiry Costs Extension then there is no entitlement to indemnity for Inquiry Costs in respect of that inquiry or hearing under this Extension.</p>
Molestation Defence Costs and Inquiry Costs	Not included	Included
Newly Created or Acquired Subsidiary	Not included	Included

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Public Relations Expenses	Not included	Included; new definition of Adverse Publicity Event
Spousal Liability	Not included	Included; new definition of Spouse
Statutory Liability	Not included	Included
Students, Volunteers, Committee Members and Council Members	Not included	Included; new definitions of Student, Volunteer, Committee Members and Council Members
Thirty Day Reporting Period	Not included	Included
Vicarious Liability for Medical Practitioners	Not included	Included; new definition of Medical Practitioner
Optional Extension		
Principal's Previous Business	Not included	Included
Exclusions		
Prior Claims or Known Circumstances	<p>The Insurer shall not be liable in respect of any Professional Services, Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Insured Costs:</p> <p>(a) first made against the Insured prior to the inception of the Period of Insurance; or</p> <p>(b) directly or indirectly arising from or in respect of any facts or circumstances which were:</p> <p>i. known to the Insured prior to the inception of the Period of Insurance and which might give rise to a Claim or Inquiry Costs; or</p> <p>ii. notified under any insurance that was in force prior to the inception of the Period of Insurance.</p>	<p>The Insurer shall not be liable in respect of:</p> <p>(a) any Claim first made against the Insured prior to the inception of the Period of Insurance; or</p> <p>(b) any Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs directly or indirectly arising from or in respect of any facts or circumstances which:</p> <p>(i) the Insured knew, prior to the inception of the Period of Insurance, might give rise to a Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs which might be covered under this Policy; or</p> <p>(ii) a reasonable person in the Insured's position would have thought, prior to the inception of the Period of Insurance, might give rise to a Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs which might be covered under this Policy; or</p> <p>(iii) were or could be notified under any insurance that was in force prior to the inception of the Period of Insurance.</p>
Retroactive Date	Incorporated in the Insuring Clause	An Exception
Asbestos	No write back	Incorporates a write back for provision of the Healthcare Services for any asbestos related disease.
Controlling or Financial Interests	<p>arising directly or indirectly from or in respect of work undertaken for or on behalf of any company related to any Insured which for the purposes of this Policy includes:</p> <p>(a) any other Insured; or</p>	<p>arising directly or indirectly from or in respect of any Claim brought by:</p> <p>(a) any Insured; or</p> <p>(b) any Subsidiary; or</p>

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	<p>(b) any subsidiary of an Insured; or</p> <p>(c) any company of which an Insured has or has held at least a 20% financial interest and has had or has board representation on that company.</p>	<p>(c) any company or trust which is operated or controlled by the Insured or its nominees or trustees and in which an Insured has a direct or indirect financial interest; or</p> <p>(d) any company in which an Insured has or has held at least a 20% financial interest and has had or has board representation on that company,</p> <p>Provided that this Exception shall not apply to any Claim brought by an Insured who is a natural person as a patient of the Insured.</p>
Dishonest, Fraudulent or Criminal Acts	arising directly or indirectly from or in respect of any dishonest, fraudulent, criminal or malicious act or omission by the Insured.	<p>arising directly or indirectly from or in respect of any:</p> <p>(a) dishonest, fraudulent, or malicious act or omission by the Insured; or</p> <p>(b) criminal act or omission or breach of any statute committed by the Insured with reckless or wilful intent.</p>
Goods Sold, Stored, Supplied or Distributed	Not included	Included
Intoxicants and Drugs	Not included	Included
Medical Practitioners	Not included	Included; new definition of Medical Practitioner
Midwifery	Not included	Included; new definition of Labour and Practice of Midwifery
Radioactivity	No write back	Incorporates a write back for ionising radiation sourced from radioisotopes or x-rays when used by qualified medical staff in any medical procedure or diagnosis.
Terrorism	No write back	Incorporates a write back for the provision of the Healthcare Services for any bodily injury, illness or disease caused by an Act of Terrorism.
Trading Debts	arising directly or indirectly from or in respect of any trading debt incurred, or any guarantee in respect of such debt given, by the Insured.	<p>Excludes claims for professional fees.</p> <p>arising directly or indirectly from or in respect of any trading debt incurred, or any guarantee in respect of such debt given, by the Insured or any claim for the refund of professional fees or charges (by way of damages or otherwise).</p>
Claims Conditions		
No Admission of Liability	A separate condition	Incorporated in the Claims Settlement Claims Condition
Claims Conduct, Claims Settlement and Assisting with Claims	<p>Three separate General Conditions:</p> <p>Claims Conduct</p> <p>The Insurer shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any Claim and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim.</p>	<p>Two separate Claims Conditions:</p> <p>Claims Conduct</p> <p>The Insurer shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any Claim and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim.</p>

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		<p>The Insurer reserves entirely its rights under this Policy, including its right to agree or deny cover while it assesses a Claim or conducts the defence. The Insurer's rights under this Policy are not affected if it does not conduct the defence.</p> <p>Neither the Insured nor the Insurer will be required to contest or litigate any Claim if, in the opinion of Senior Counsel, reasonable attempts should be made to settle the Claim. The Senior Counsel shall be mutually agreed upon, or in the absence of such agreement, as nominated by the President of the NSW Bar Association (or the equivalent State or Territory association). The cost to obtain the opinion will be advanced by the Insurer and treated as Defence Costs.</p> <p>Senior Counsel shall provide the opinion in writing. In formulating the opinion Senior Counsel shall consider commercial matters including the amount of the Claim, the actual and potential loss (including Defence Costs) that may reasonably be incurred in contesting the Claim, the liability prospects and the prospect of recovering costs against the claimant in the event that the defence is successful. Senior Counsel shall also provide a settlement range within which reasonable attempts should be made to settle the Claim.</p> <p>If it is the opinion of Senior Counsel that reasonable attempts should be made to settle the Claim, the Insured shall not object to the Insurer's attempt to do so.</p>
	<p>Claims Settlement</p> <p>Should the Insured object to a proposal by the Insurer to settle or compromise any Claim and wish to contest or litigate the matter, then the Insured may so elect, provided that the Insurer's liability in respect of any such Claim so contested or litigated shall not exceed the amount for which, but for such election, it could have been settled or compromised by the Insurer, together with costs and expenses payable in accordance with the terms of this Policy and incurred up to the time of such election, but subject always to the Excess and to the Limit of Indemnity.</p> <p>Assisting with Claims</p> <p>The Insured shall give all such assistance as the Insurer may reasonably require but none of them shall be required to contest any legal proceedings if it objects to doing so unless a Senior Counsel or a person of similar authority (appointed by mutual agreement between the Insured and the Insurer and paid for by the Insurer) shall advise such proceedings could be contested to the extent that there is a reasonable probability of success.</p>	<p>Claims Settlement</p> <p>The Insured must not settle or offer to settle any Claim, incur any Defence Costs or otherwise assume any contractual obligation or admit any liability in respect of any Claim without the Insurer's prior written consent.</p> <p>If the Insured objects to a proposal by the Insurer to settle or compromise any Claim payable under this Policy and wishes to contest or litigate the matter, then the Insured may so elect, but the Insurer's liability in respect of any such Claim so contested or litigated will not exceed the amount for which, but for such election, it could have been settled or compromised by the Insurer, together with Defence Costs payable in accordance with the terms of this Policy and incurred up to the time of such election, subject always to the Excess and to the Limit of Indemnity.</p>
Fidelity Recoveries	N/A	Included

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General Conditions		
Assignment	Not included	Included
Authorisation	Not included	Included
Governing Law	This Policy will be governed in accordance with the laws of Australia.	The Policy will be governed in accordance with law of the State or Territory of Australia in which the Policy was issued.
Interpretation	Not included	Included
Material Change	Not included	Included