



FOR PROFESSIONALS

SINCE 1941

SAPRAA: 7th June 2013

Do we, registration pharmacists in Industry require Professional Indemnity? some useless information, many mistakes, and a few Risk Management Issues



INSURANCE FOR
PROFESSIONALS



7 June 2013
Charles Skinner

OUTLINE OF PRESENTATION

1. Is PI Compulsory? My Company covers me?
2. PPS and PI
3. Some useless information / interesting facts and PI Rates over the years
4. Incidents or Case Studies
5. Apologies, Reporting incidents and Risk Management

PI Compulsory?

1. The Health Act of 1974
2. HPCSA, formerly the Medical and Dental Council
 - a) Psychologists
 - b) Govt Gazette 2010
3. Pharmacists (Pharmacy Council) They aren't bothered if you are a registration pharmacist, are you registered with them???????

Govt Gazette, August 2010

The implementation of the new regulations published on August 30, 2010 in the Govt Gazette making indemnity cover compulsory for practitioners registered with the Health Professions Council of South Africa (HPCSA), has been placed under moratorium.

The legislation will apply to practitioners in the independent category, e.g. doctors, specialists, dentists, psychologists and other healthcare professionals registered with HPCSA. It will therefore ensure that all HPCSA practitioners, practicing for their own account, are legally required to have indemnity cover from a provider registered under the Short-term Insurance Act.

PHARMACISTS




23/09 2009 WED 7:56 FAX 0123211479 Dep Finance

001/001



South African Pharmacy Council

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Your reference

Our Reference
TA Masango

Date
23 September 2009

Dear Mr Kotze

PROFESSIONAL INDEMNITY

According to Board Notice 83 of 2008 published on 29 August 2008 any person registered with the South African Pharmacy Council who performs one or more of the functions relating to the scope of practice of the category in which he/she is registered must be covered by his/her own indemnity insurance.

Yours faithfully

MR. TA MASANGO
REGISTRAR
/ag

My Employer Covers me ?

Govt Employed Pharmacists and P. Assistants:

Chapt W of Treasury Bill (Now chapter 12 of Dept of Finances Bill)

Those working in Private Sector:

Large Groups: eg Clicks, Dischem, Medirite, PnP and now SPAR – Most have policy that list you and they do it through A.Forbes / AON / Glenrand/ and into SHA or GPLA.

Those working for larger corporations such as Pharmaceutical Companies (Whats your role?)

Who is PPS?

PPS has 70 years of experience in understanding the risk profile of the graduate professional market

4 year Degree required.

Recently membership expanded to include Radiographers

Short term insurances introduced in last 7 or 8 years –
Personal lines (PI and Commercial to come)

PPS and Professional Indemnity

Natural progression. 10 years of knocking on the door.

In September 2009 we brought the Pharmacy Scheme into PPS, PPS acting as a broker in partnership with the Pharmaceutical Society – moved from previous u/w GPLA to Etana

Role out to doctors, dentists, other allied h'care professionals, architects, lawyers, accountants, engineers, vets – any professionals for that matter

Some Useless information

In order to set the scene for the rest of the presentation, lets share some useless information (but interesting!!!!!!!!!!!!!!!!!!!!)

(and hopefully spur you all into ensuring you have PI one way or another)

Lawyers: (outnumberering engineers in litigious societies)

“its always someone elses fault” “....running out of medical aid....”

.....become a doctor (healthcare provider) support a lawyer!!!!!!!!!!!!!!

..... Banish them to China, no wealthy patent attorneys in China, no wealthy consumer rights lawyers in China, not many successful human rights lawyers in China and even criminal lawyers tend not to have long term relationships with clients – often swiftly terminated!!

Letter From MDU to its O&G's in Ireland



Log in Cor



Medical Malpractice
and
Hospital Errors

MDU Home > Media Centre Home

The MDU makes sure you are kept informed

News

external relations

about the MDU

Media release

Litigation crisis set to continue

As the MDU settles part of a €4.8 million compensation claim, the crisis in litigation looks set to continue unless Enterprise Liability is introduced.

Media contact: Press Office on 020 7202 1535 or 020 7202 1504

Date: February 18, 2002

The crisis in litigation in obstetrics and gynaecology is set to continue unless Enterprise Liability is introduced warned the Medical Defence Union today. The warning comes as the MDU settled part of a €4.8 million compensation claim on behalf of an obstetrician member, along with a Health Board.

The award, one of the highest made in Ireland arising from medical care, was settled to compensate a patient with cerebral palsy.

Dr Christine Tomkins, professional services director at the Medical Defence Union, said:

"While it is only right that patients who are harmed by medical accidents are adequately compensated, the current rises in obstetric litigation in Ireland cannot be sustained. In the last 5 months alone, there have now been three obstetric cases settled for a total of Euro 11.1 million. Our figures show that over the last ten years, claims in obstetrics have risen at 26.5% a year. This is the equivalent of doubling every 3 years - much faster than the rate for other claims. The Department of Health has also recently admitted that it is impossible to continue to fund such high compensation payments without the introduction of an Enterprise Liability scheme."

Last year, the MDU was forced to change what it costs to indemnify obstetricians by increasing their subscription rate seven fold to €499,000.

Dr Tomkins continues:

"Ireland is not alone in facing this problem, but is perhaps unique because only a small number, approximately 110 consultant obstetricians, have to share the burden of

Contact the Media Centre

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020 7202 1504 or 020 7202 1535 (office hours)
0800 716 646 (24 hour)

► **By fax:**
020 7202 1667

► **By email:**
media@the-mdu.com

£ 393000

BP

€ 499000



MPS's response



Press Statement



MEDICAL PROTECTION SOCIETY

MDU Claims Experience at Odds with MPS

Consultant obstetricians who are MDU members are being invited to apply for membership of the Medical Protection Society today following a massive MDU subscription hike to £393,000. The equivalent MPS rate is £51,600.

€ 499,000 IRISH ≡ £ 393,000 (GBP). (RS MILL.)¹

In inviting applications MPS, which already supports over 1000 consultant members in Ireland (including the majority of obstetricians), says that the claims experience cited by the MDU as the reason for its enormous hike, is at complete variance to the Society's own extensive claims experience.

MPS Chief Executive, John Youngman says:

"We reviewed our subscription rates in February this year on the basis of actuarial advice and claims experience. We believe it to be for the benefit of the profession and the public that subscriptions for consultant obstetricians remain affordable and we are confident that, on the basis of our claims experience in Ireland and appropri-



Current Dr/Dent/Pharm Rates in SA

Speciality	1994	2000	2005	2008	2010	2011
GP non proc	R480	R1,800	R5846	R6,095	R7,040	R7,740
GP proc	R480	R2,700	R9303	R9,595	R11,300	R12,400 R12,700
GP Obstets	R480	R5,700	R20,286	R25,500	R37,645	R45,600 R56,000
Obs & Gyn	R480	R30,000	R66,453	R97,100	R130,540	R156,100 R188,000
Plastic Sgn	R480	R30,000	R122,413	R200,000	Contact MPS	Contact MPS
Hi Risk Sgn	R480	R13,500	R43,719	R77,625	R105,750	R116,000 R174,000
Dentists	R280	R1,000	R2,500	R3,400	R4,220	R4,700
Pharmacy	R128 (R2,5m)	R210 (R2,5m)	R380 (R2,5m)	R590 (R5m)	R680 (R5m)	R760 (R5m)



Current Dr/Dent/Pharm Rates in SA

Speciality	2011	2012	2013
GP non proc	R7,740	R7,900	R8,200
GP proc	R12,400 R12,700	R13,600	R15,300
GP Obstets	R45,600 R56,000	R61,000	R83,000
Obs & Gyn	R156,100 R188,000	R220,800	R250,700
Plastic Sgn	Contact MPS	Contact MPS	R107,000 or R320,000
Hi Risk Sgn	R116,000 R174,000	R208,000	R227,000
Dentists	R4,700	R5,200	R5,600
Pharmacy	R760 (R5m)	R840 (R5m)	R940 (R5m)



Current MPS rates for allied healthcare practitioners

MEDICAL PROTECTION SOCIETY

- Nurse Practitioner (NUP) R2,970
- Practice Nurse (PRN) R2,300
- Psychologist (CPS) R2,600
- Radiographer (RDP) R2,100
- Speech Therapist (STP) R2,265
- Physiotherapist (PHY) R2,970
- Other Associates (ASS) R2,200



MPS Footnote!

NOTES:

MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association. The Medical Protection Society Limited. A company limited by guarantee.

Registered in England No. 36142 at 33 Cavendish Square, London, W1G 0PS, UK.

Incidences that have led to claims

- 1) Warfarin (Cipla-Warfarin especially)
- 2) Warfarin (First death in Nov 2011 that I am aware of)
- 3) Warfarin
- 4) Warfarin
- 5) Warfarin
- 6) Warfarin
- 7) Warfarin
- 8) Warfarin
- 9) Warfarin
- 10) Warfarin etc etc etc

(Jokes aside, please be extra vigilant)

Incidences that have led to claims

11) Eye Preparations

- a) Topical Zovirax vs Ophthalmic drops
- b) Ganfort vs Pred Forte eye drops
- c) Voltaren emulgel vs Eye drops
- d) Tobrex vs Tobradex

12) Generics:

- a) Verahexal (verapamil) vs Vyrohexal (acyclovir)....
- b) Adco.....generics!
- c) Adco-Zildem vs Adco-Zolpidem

14) Ermelo hospital example (common names).

15) Quinolones drug interaction with certain non sedating antihistamines

Incidences that have led to claims

16) Xarelto vs Xatral: (most recent, could be circa R350k)

Largest successful Claims:

- 1) Kroonstad: Lamictin vs Neurontin R390,000.00
- 2) Bryanston: Warfarin error R300,000.00
- 3) Pretoria: Warfarin: (cipla) R80k
- 4) Offered R15k on another Cipla Warfarin one. Wants R100k.
- 5) 4th one Cipla Warfarin just come in: R100k.

Largest unsuccessful Claims:

- 1) Namibia: R10,000,000.00 Vexatious Litigator:
- 2) Nigel: R2,000,000.00 20 tablets metronidazole taken stat (Negotiations still ongoing). Quantum now R100k
- 3) Durban: R1,4million Pred Forte given instead of Ganfort

Risk Management

Identify, characterise and assess threats/risks

Assess vulnerability to these risks

Identify ways to reduce those risks

Prioritize risk reduction (highest to lowest, least threatening)

Well handled Apology

An apology is not an admission of Liability and even doctors in the USA have taken to apologizing without admitting liability in the 21st Century. Words such as ‘fault, blame, liable, sue, case’ should be avoided.

The overwhelming consensus among malpractice lawyers in the USA has been to recommend silence to Healthcare Practitioners when they are sued for medical errors – especially one leading to serious injury or death.

Well handled Apology

This approach is based on a common but mistaken assumption by the US legal profession that people are so greedy and litigious – that admitting any error sets the stage for a prolonged lawsuit and very large settlements. This is far from the case – people ‘usually’ just want answers and the truth.

The President of South Carolina’s Trial Lawyers Association sums up this conventional wisdom about medical apologies:

‘I would never introduce a healthcare practitioners apology in court. It is my job to make the practitioner look bad in front of a jury, and telling the jury the practitioner apologized and tried to do the right thing kills my case.’

Legislative changes that will affect all healthcare practices:

1 April 2011 – Consumer Protection Act came into operation

Nine consumer rights:

- The right to equality in marketing
- Privacy
- Choice
- Fair and responsible marketing
- Fair and honest dealing
- Disclosure and information
- Fair, just and reasonable terms and conditions
- Fair value, good quality and safety

And what about National Health Insurance?



THANK YOU

(and lets be careful out there, mistakes can cost “us”, and later you, a lot of money)



Risk Management

The three cornerstones of Medical Ethics are a template for risk management:

Record Keeping / Consent to Treatment / Confidentiality

DEFENSIVE vs DEFENSIBLE MEDICINE / Research

Tried and Tested protocols, sop's and systems in place:

Always beware of overriding systemsbut:

The most powerful risk management tool of all.....!!!!!!!

Risk Management

A well handled APOLOGY!

Things are bound to go wrong – an apology is not an admission of liability.

- 1) If something went wrong, patient must be informed**
- 2) Have what went wrong explained**
- 3) Explain in great detail what you are going to do to fix whatever went wrong**
- 4) Explain what systems you will put in place to ensure it won't happen again – to anyone else**

Well handled Apology

Dr Nick Norwell of The Medical Defence Union in the UK has spent almost all his working career within the MDU researching and advising on how to handle complaints and correct errors. For 40 years he has advocated a courteous apology and immediate correction of the matter, no matter how trivial it may seem. Nick has come up with figures that more than half of potential complaints to professional bodies (eg Health Professional Council or Pharmacy Council) or potential litigation will never develop into serious matters if the complaint or error is speedily handled and corrected.

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REMEMBER:

Arrogance and Greed and taking shortcuts

FEMALE DOCTORS/HEALTHCARE PRACTITIONERS:

Same Nick Norwell: Incidence of lawsuits – less than half

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And what about National Health Insurance?

Insurance vs Friendly Society and **Claims made vs Incidence Occurring**



THANK YOU

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Case Studies

- 1) PA's not getting scripts signed off /checked by Pharmacist
- 2) Quinolone antibiotic
- 3) Diuretic example
- 4) Lamictin vs Neurontin
- 5) Ranitidine vs Antibiotic





Case Studies

6) State Hospitals: Ermelo example

7) Namibian example R10million claim





Risk Management

1) QA dept

2) Apology: is not an admission of liability

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3) Error made: QA meetings / present at CPD sessions.
Remember to always add 'what are we going to do to ensure this does not happen again?'



*Quality assurance of
pharmacy practice*

○ Pharmacy inspections

○ Remedial and disciplinary processes

○ CPD





Quality assurance of pharmacy practice – what can YOU do?

○ Take responsibility

- Your own work
- People that you supervise

○ Remember dispensing pracs at varsity – CHECK! (and then just check again)

- Record incidents
- Professional indemnity insurance





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And what about National Health Insurance?





Pharmacy PI Rates in South Africa

	Rates effective 01/04/2012				Rates effective 01/04/2012			
	A – R5 million				B – R10 million			
Category of Practice	Annual Premium Incl. VAT	✓	Monthly Premium Incl. VAT	✓	Annual Premium Incl. VAT	✓	Monthly Premium Incl. VAT	✓
Industrial Management, Group Directors, Clinical Trials, Research Pharmacists	R1410		R117.50		R1800		R150.00	
Retail/State Principal, Retail/State/Industrial Employees, Locums, Pharmacy Nurses, Medical Scheme Clinical Consultants, Other	R860		R71.67		R1120		R93.34	
Pharmacist Assistant, Intern, Student, Academic, Community Service	R325		R27.09		R430		R35.84	

