



8 February 2006

Ms Vicki Wilkinson
Manager
Treasury Insurance Access and Pricing Unit
Medical Indemnity
Langton Crescent
Canberra ACT 2600
e-mail MIPSPScoverage@treasury.gov.au

Dear Ms Wilkinson

Re Treasury discussion paper: Coverage of the Medical Indemnity (Prudential Supervision and Product Standards) Act 2003

Thank you for the opportunity to respond to the above discussion paper. The ANF is the national union for nurses in Australia with branches in each state and territory. The ANF is also the largest professional nursing organisation in Australia. The ANF's core business is the industrial and professional representation of nurses and midwives in Australia. The ANF's 150,000 members are employed in a wide range of enterprises in urban, rural and remote locations in the public, private and aged care sectors, including hospitals, health services, schools, universities, the armed forces, statutory authorities, local government, offshore territories and industries. The ANF participates in the development of policy in nursing and midwifery, regulation, health, community services, veterans' affairs, education, training, occupational health and safety, industrial relations, immigration and law reform.

In responding to the Discussion Paper, the ANF does so from the perspective of nurses and midwives and our comments are generally limited to those which directly impact on the provision of nursing and midwifery services.

Question 1

The ANF supports limiting the prudential supervision requirements of the Act to medical practitioners in private practice, although there should be some flexibility within the Act for the Government to include high risk health care professionals who would then also have access to the Government benefits listed on p.19 of the Discussion Paper:

- the run-off cover scheme;
- subsidisation of insurance premiums;
- reimbursement to insurers of half of any insurance payout above \$300,000; and
- indemnifying practitioners for claims incurred involving payments over \$20 million.

The industrial and professional organisation for nurses and midwives in Australia

Canberra Office (Professional Services)

Unit 3, 28 Eyre Street Kingston ACT 2604
Australia
PO Box 4239 Kingston ACT 2604 Australia
+ 61 2 6232 6533 (T) + 61 2 6232 6610 (F)
anfcanberra@anf.org.au

Melbourne Office (Industrial Services)

Level 2, 21 Victoria Street Melbourne VIC
3000 Australia
+ 61 3 9639 5211 (T) + 61 3 9652 0567 (F)
industrial@anf.org.au
anfmelbourne@anf.org.au

ANF Journals

Australian Nursing Journal
Australian Journal of Advanced Nursing
anj@anf.org.au ajan@anf.org.au
ABN 41 816 898 298

(2)

While the purpose of the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* was to “ensure the stability of medical indemnity insurers and the adequacy of the insurance offered to health care professionals” it has had the opposite effect for nurses and midwives. Apart from confusion on the part of insurers about the application of the product standards being applicable only to medical practitioners, the requirement that they be regulated by APRA in order to offer professional indemnity to midwives and nurses has resulted in their decision to exit the professional indemnity market for nurses or midwives who work in private practice.

Increases in the cost of professional indemnity insurance for nurses and midwives are occurring because of the lack of definition of the different types of service they are providing and the different contexts of practice. Midwives for example are being considered in the same category as obstetricians, although there are marked differences in initial client selection, interventions provided and the risk of adverse outcome.

While the public sector remains the primary employer of registered and enrolled nurses, nurses and midwives can choose to work in private practice or as independent consultants to health services or to general or specialist medical practitioners. As a result of the 2003 changes to the Act, these nurses and midwives are no longer able to secure professional indemnity insurance or unable to secure it at a cost that bears any relation to the risk involved, or which can be met within their existing income.

The inability to secure professional indemnity insurance has already prevented many nurses and midwives from being able to provide their services in private practice . Whether local or overseas companies are involved, the nurse or midwife is being asked to outlay considerable funds for insurance while their risk profile remains low and their income remains in the low to medium range. These nurses and midwives are small business people providing services of benefit to and demanded by the Australian community, services that the community is often prepared to pay for (eg. public health interventions, nursing care at home, and community based midwifery services) as they do not, on the whole, attract Medicare or private health insurance rebates.

Restricted access to professional indemnity insurance reduces the choices that are available for members of the Australian community and ultimately can increase the risk of utilising the services of under or non insured practitioners. The Australian community has decided that it wants to receive these services by nurses and midwives. Any consideration and review of the Act should take this situation into account in order to achieve the aims and purpose of the act: ie. to secure “a stable, safe and affordable medical indemnity insurance industry for the benefit of health care professionals and their patients” (Discussion Paper paragraph 2).

The ANF has welcomed moves by the Australian Government to include Medicare item numbers for some health care practices provided by nurses and midwives, however the issue of lack of access to indemnity insurance is an impediment to the take up of those initiatives and again negatively impacts on consumer choice.

(3)

If indeed the Australian community is to have true choice about whom they access for their health care, then it necessarily follows that as consumers they should be awarded equal protection and be adequately compensated for adverse events or negligence from all health care professionals, not just medical practitioners. This requires the availability of professional indemnity insurance whose premiums fairly and accurately reflect the level of risk.

Question 4

The ANF supports the maintenance of the Act specifying a minimum level of cover. While it may be the case that higher levels of cover are being purchased, the removal of a mandated minimum may result in inadequate levels being purchased in the future.

Question 6

The ANF is of the view that access to the Government's medical indemnity assistance measure is limited to those contracts of insurance that meet the product standards set out in the Act.

Please contact Gerardine (Ged) Kearney at the Melbourne office listed below with any further queries or on gkearney@anf.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gerardine', written in a cursive style.

Gerardine (Ged) Kearney
Assistant Federal Secretary