



PRASIS FEBRUARY 2021 NEWSLETTER

Dear PRASIS Member

May we take this opportunity to wish you and your families a very happy 2021.

We would also like to extend our thanks to you for your loyalty in remaining a PRASIS member through what has been a challenging period.

This e-newsletter contains comprehensive information from our new brokers, MIC which we hope will give you a greater understanding of indemnity in general.

We are grateful to Simon Downing, Managing Director of MIC and its staff for all their support to PRASIS through the difficulties of the Covid-19 Pandemic and the challenges associated with our change of brokerage. We look forward to strengthening our relationship with MIC, and broadening their work for the benefit of PRASIS members.

We are here to help members with any enquiries. The quickest way to get through to a Board member is to contact the PRASIS Board Secretary Helen Roberts, via email or mobile phone (see below), and she will ensure your query is forwarded to the correct member of the team.

With Best Wishes

The PRASIS Board

Chair:

T Yeoman,

Clinical Board:

Steve Hamilton

Mark Henley (Advisor)

Graham Offer

Jim Kirkpatrick

J Srinivasan (Srinivas)

Ruth Waters

Legal Advisor:

Nicky Collins, Lawyer at Slater Heelis, Former PRASIS Chair

PRASIS Board Secretary:

Helen Roberts (helen.roberts@prasis.org)

Mobile: 07930509646

Board Members

Nicky Collins, lawyer and Board Member since March 2016, will step down as Chair of PRASIS at the end of February 2021, having completed her planned two years in this role. The Board of PRASIS wish to thank her for her calm and authoritative leadership during this time, and are delighted that she will remain as a Board Member.

Tony Yeaman, a solicitor with over 30 years' experience of specialising in Clinical Negligence and Healthcare Law, having been a senior partner in two of the leading UK Healthcare litigation law firms and former National Head of Healthcare at Weightmans LLP, has been elected as the new PRASIS Chair. Tony has extensive managerial experience across legal and healthcare related organisations, including as a long-standing board member of a large Foundation Trust from where he is shortly to retire as Deputy Chair. The Board of PRASIS are delighted to welcome him to this position, which he will take up from March 2021, serving for three years with annual review.

Mark Henley has been unanimously elected as an advisor to the Clinical Board, bringing his invaluable experience, knowledge and insights of the previous and current worlds of medical indemnity.

Congratulations also to Clinical Board member Ruth Waters, as she begins her two years' term as BAPRAS President.

Medicolegal Helpline

In order to provide a more streamlined, personal and holistic support to members when contacting the PRASIS Medicolegal helpline, Emily Borhan will shortly be starting as the Medicolegal advisor for PRASIS.

Emily is a Senior Medical Negligence Advisor, with a wide experience of medical law, indemnity and medicolegal advice. She supported the early growth and development of PRASIS from as far back as 2013, and has previously assisted PRASIS members with a wide variety of medicolegal issues.

Emily would be very pleased to discuss any issues with you.

She will be available to provide continuity to contacting members, supported by the insurer-appointed 'out of hours' medicolegal assistance. The helpline number is shown on your policy schedule and will be updated for all members as you renew. She can also be contacted by email on

emily.borhan@m-i-c.co.uk

As always emphasised it is vital that any members who receive a complaint (or who have any concerns) contact the Medicolegal helpline without any delays, so as to ensure appropriate advice and actions at the earliest stage possible, thereby providing maximum protection for the member.

PRASIS Brokers – Medical Insurance Consultants (MIC)

Attrib. Simon Downing, Managing Director of MIC

The majority of PRASIS members have now transitioned from our previous brokers MPIG (now part of Arthur J. Gallagher & Co.) to our new brokers MIC.

Transition from MPIG to MIC at the time of a member's policy renewal is mandatory in order to remain as a member of PRASIS. However, we strongly encourage remaining members to transfer before their renewal date, so that MIC can act on their behalf in advance, and particularly at the time of their renewal when MIC can then negotiate with the Underwriters on behalf of the PRASIS member.

Please note that the duty of our Broker - MIC - is to act on behalf of PRASIS and each individual PRASIS member, and that its duty is not to the underwriters.

Our broker MIC deals with virtually all of the medical indemnity insurers.

This transition requires the submission of the signed Broker of Record ('BOR') form to MIC, which is worded to allow MIC to act on your behalf in administering your current policy and renewal. Signing this form does not result in any changes to your cover or insurer, and does not place you under any additional renewal obligations. A copy of this form is attached.

Only MIC is authorised to contact members on behalf of PRASIS and this process should not involve other brokers. We understand that some members who have signed a BOR appointing MIC are continuing to be contacted by our previous brokers. If this has happened to you, please let us know and we will take this up with Gallagher & Co. on your behalf.

MIC can be contacted on:

Telephone: 01935 847382

Email: prasis@m-i-c.co.uk

Underwriters and Premiums

Attrib. Simon Downing, Managing Director of MIC

CFC continues to be the main underwriter used by MIC for PRASIS members, and currently all PRASIS renewals have been with them, though in certain instances alternative cover and insurers may be appropriate for a member as recommended by MIC.

Covid-19 has had a hugely adverse impact on the private practices of UK plastic surgeons, causing major financial challenges and anxieties for many members of PRASIS.

CFC has worked to establish processes to manage the situation equitably for all members, a key requirement of the Financial Conduct Authority in order to 'Treat Customers Fairly'.

From a very early-stage CFC offered extended payment terms, with delays of up to 120 days for members to pay their premiums.

For surgeons who had renewed in the months before the first lockdown of March 2020, CFC agreed to review the impact at the following renewal when an accurate figure for loss of income that year could be taken into account as part of the calculation for the forthcoming renewal premiums. CFC has already been through this cycle with those members who have since renewed, where the loss of income has resulted in some significant discounts on renewal premiums for such surgeons. [SEP]

For surgeons renewing after March 2020, ie by which time the impact of Covid-19 on projected private earnings had become apparent, CFC adjusted their underwriting approach to calculate premiums far more heavily biased towards the greatly reduced projected incomes, allowing immediate financial relief by reducing premiums appropriately.

Overall, since the transfer to our new broker MIC in April 2020, many members have now been through their renewal process, with adjustments made to reflect their actual income earned vs. their original income projections since the onset of the Covid-19 restrictions, and their future income projections in the light of the ongoing Covid-19 impact. This process has been conducted in a fair and equitable manner for all members, and many have seen reductions in their premiums.

Where a surgeon's renewal was subject to a minimum premium or where an individual surgeon's circumstances prevented further premium reductions (see below), alternative support has been provided by offering some individuals extensions of up to three months' duration for free, equating to up to 25% of the premium in some cases, as per the following worked example:

1. Previous 12-month policy premium of £12,000
2. Free 3 months' extension offered
3. Extends policy from a 12-month to a 15-month policy
4. Cost of a 15-month policy based upon existing policy would be £15,000
5. Therefore, an extension to the value of £3,000 provided free of charge
6. Renewal date has moved 3 months, at which point a further 12-month policy would be offered

In addition to this:

- PRASIS discontinued its 2% membership subscription to help our members.
- MIC has also been highly flexible on the commission they earn to manage and arrange members' policies, to provide immediate financial relief.
- Where possible premium finance providers, including Close Brothers and Premium Credit have provided payment holidays, reduced monthly payments and extended agreements.

All of this is designed to assist with cash flow for individual surgeons.

Unfortunately the anxieties for many PRASIS members created by the challenges of the Covid-19 era has been aggravated by the tactics of some parties within the medical indemnity market who have sought to exploit the situation to their own advantage, aggressively targeting plastic surgeons with offers of reduced premiums and ostensibly highly attractive terms. However, much of these opportunistic offers does not bear close scrutiny, and in our view some appear unsustainable, with policies that are not robust and which contain hidden terms that could leave surgeons exposed to unacceptable risk. In some cases these offers are being made by companies whose longevity appears uncertain.

In contrast we believe that CFC has excellent credentials in terms of expertise, experience, capacity, financial security and longevity to provide PRASIS members with safe and stable insurance.

Supreme Court Judgement on Business Interruption Claims

Attrib. Simon Downing, Managing Director of MIC

Our broker MIC has highlighted as an area of interest to our members the Supreme Court judgement made on the 15th January 2021, which relates to Business Interruption insurance claims made during the Covid-19 pandemic.

Please note that this this relates to commercial property insurance which contains Business Interruption Cover, not to your medical malpractice insurance.

The judgement was undertaken as a result of appeals lodged by various insurers and the FCA as to how policy wordings should be interpreted for such claims.

Fundamentally the judgement not only came down on the side of the policyholder, but also amended a previous High Court judgement to expand the ability of policyholders to claim.

In light of this judgement members who have their own clinics and clinic insurance should consider revisiting any claims previously submitted by them.

If you have submitted such a claim you should be contacted by your insurer (assuming they are covered by this judgement) with an update on how they will be reviewing claims which were previously declined.

If you did not submit a claim, and feel that you could be entitled to claim under your policy, then you can still do so.

PRASIS Sponsorship

1. Burns and Plastic Surgery App - BurnsPlastics

PRASIS and BAPRAS have jointly sponsored the launch of a new application for smartphones and tablets.

BurnsPlastics was developed by UK Plastic Surgery trainee Patrick Tabet, along with a number of collaborators from across the plastic surgery multidisciplinary team.

Please see:

<https://burnsplastics.com>

This App was first presented to the BAPRAS meeting in Monaco in December 2019, and has a broad appeal as a reference tool to all who work in the field of plastic surgery. It is free to download.

2. BAPRAS Winter Meeting, December 2020

PRASIS was pleased to be able to sponsor the evening free paper sessions at the last BAPRAS Scientific Meeting.

3. RCS Cosmetic Surgery Certification Scheme

The aim of this Scheme is to set the standards of Aesthetic surgery and to provide accreditation for key competencies so as to demonstrate expertise to patients, and ultimately to help make the cosmetic surgery industry safer by improving professional behaviours in this sector.

The main contributors were selected Plastic Surgery colleagues from BAAPS and BAPRAS, supported by other Specialty associations.

It is supported by all four surgical Royal Colleges.

Please see the following link for further information:-

<https://www.certify-cosmeticsurgery.org.uk/home>

While credentialing with the GMC is not yet mandatory, it is likely that this will follow soon.

The “Professional Behaviours in Aesthetic Surgery Course’ has been produced as part of the Certification process. It is currently offered as fully online course, see:-

https://www.youtube.com/watch?v=8wjwCi4vSmQ&feature=emb_logo

Completion of this course (along with provision of details of the applicant’s operative practice) is necessary to apply for this Certification.

PRASIS members are encouraged to undertake this process.

The current cost of the course is £475. However, PRASIS will reimburse members £300 of that fee on production of proof of its completion by the member.

Members should also note that in addition to the cost of this course there is an application fee for the Certification Scheme of £650.

For further information or to book this place on the course, please email:-

apply@certify-cosmeticsurgery.org.uk

Further Educational and Professional Resources

We would like to highlight the following, including reminders of resources still available to all members as part of their membership.

1. EIDO Healthcare

EIDO Healthcare provides members with the following tools following tools to support informed consent:

a. Procedure-specific patient information library

You can download and print your personalised documents by entering your login details provided with your PRASIS membership, at:

<https://inform.eidosystems.com>

These patient information documents (in the ‘Plastics’ section of the ‘Procedure Information’ menu) are:

- endorsed by the Royal College of Surgeons.
- fully referenced and up-to-date.
- Crystal-Marked by the Plain English Campaign.
- certified by the DoH's Information Standard.
- widely used across the acute NHS and private sectors.

b. Medico-legal consent training course

Consent law is a highly complex area, and one that is constantly evolving as new cases are decided by the courts.

This consent training course is modular and structured around problem-based learning, with optional modules exploring consent in specialist areas such as obstetrics, paediatrics, A&E and research. It is continually updated to reflect the latest developments in the law, and is certified for 10 CPD hours.

To access the course please go to <https://www.beinformedplus.com/login> and enter your same EIDO log in details.

2. Elsevier ClinicalKey in Plastic Surgery

This allows PRASIS members to view the wide range of Elsevier plastic surgery journals (including eg *Clinics in Plastic Surgery*) and plastic surgery textbooks.

For a list of available journals and textbooks, see: <https://store.clinicalkey.com/product/plastic-surgery/>

The subscription for this is normally \$749 per annum, but it is accessible without charge via your login to the Members section of the PRASIS website.

3. PRASIS webinar

PRASIS are planning to provide a webinar (date to be confirmed) to discuss with members the processes and current issues of Medical Indemnity.

BAAPS Support Legal webinar series

We would like to highlight to you this four webinar series which has been running since 30 November 2020.

Please see the following link:

https://baaps.org.uk/baaps_support_webinars.aspx

Frequently Asked Questions

Attrib. *Simon Downing, Managing Director of MIC*

1. How is my Premium calculated?

There is no algorithm for this.

Premiums are tailored very specifically to each individual surgeon, and take into account many factors, which are carefully considered by the Underwriting team.

These factors include:

- Profile and nature of work undertaken, and whether this includes 'higher risk' surgery (such as facial aesthetic surgery) or 'higher risk' patients (such as celebrities)
- Numbers of years in practice.
- Income earned over previous years.
- Projected income for future year.
- Personal claims history (past and present).
- History of frequent changes of Indemnifier, and reasons for that.
- Prevailing issues (eg ALCL).

In a 'claims-made' policy, as in the case for PRASIS members, the insurer takes on the past patients treated by that surgeon as far back as the retroactive date.

Future claims 'inflation' also needs to be factored in, which usually runs between 5-10% per year.

Projected income therefore is only one of a number of factors influencing premiums, and is not always the most important.

For these reasons surgeons who have very similar incomes frequently have very different premiums.

It is vital for the protection of an individual surgeon that the premium accurately reflects the cover that that individual needs, and this requires accurate information provided by the surgeon, and great expertise and experience on the part of the Underwriter to assess that surgeon's profile.

2. Why does my Premium not drop in proportion to my drop in income?

This is for the reasons outlined above, and in particular relates to the cover required for the cohort of patients treated during the previous years, reaching back to the policy 'retroactive' date, which is not affected by changes in a surgeon's current or projected activity. For some surgeons this may be a small cohort of patients, for others it may be a huge group.

It should be noted that 'claims activity' generally remains high, and that at times of economic recession spurious claims increase in frequency, especially as the costs to claimants is nothing as they can obtain a 'No Win No Fee' Conditional Fee Agreement (CFA). Even claims that are spurious need time and incur expense to defend. This increased activity already appears to be occurring in the shadow cast by Covid-19.

Premium reductions take into account re-ratings for the previous year and future years. However, there is always a minimum amount below which premiums cannot drop, so as to maintain cover and standards of service. In cases where that minimum is reached then free extensions are considered. In such cases extensions of up to three months' of the term of a surgeon's policy have been offered (see above).

3. Am I covered for claims related to Covid-19?

This has again been the subject of some statements made by other groups offering insurance, which have led to some misinterpretations.

As per the CFC First Response document (circulated to members in April 2020) CFC policies do cover claims involving Covid-19, if they relate to clinical negligence on the part of the surgeon. This cover is subject to the standard terms and conditions of the policy, which is **the same for all insurers**.

4. Why am I being asked to pay an additional premium this year? I thought I was going to get a refund!

This relates to a small number of surgeons, whose income has significantly exceeded their projections on which their premiums had been calculated.

CFC has always remained flexible and exercised discretion in pursuing this to date, especially when actual income has not greatly exceeded the predicted income. However, the differences have been significant in some cases, and occasionally they have very

considerable (in one case over 500% of that predicted), meaning that additional premiums have had to be sought.

Such behaviour contravenes the basic insurance principles relating to 'premium income in' vs 'claims payments out', and can adversely affect the premiums of all members of a scheme in which other surgeons in the scheme will effectively end up subsidising such individuals.

This previously happened with the Medical Defence Organisations (MDO's), where the behaviour of a few surgeons resulted in high premiums for all. It is standard practice for the MDOs to take into account years where predicted income was significantly exceeded by actual income, and they have often used this as an excuse for withdrawal of indemnity cover, as well as the audit of surgeons over several years resulting in demands for large back payments.

Therefore this arrangement has had to be made contractual for PRASIS members in order to protect the scheme and members as a whole.

As with all insurance policies the premium is based on the information provided by the insured, and there is an obligation to inform the insurer of any material changes. CFC has encouraged surgeons to review their income figures with their accountants to ensure as far as possible that they neither under pay nor over pay, though currently it is recognised that this may be particularly difficult.

Should members earn more than anticipated, any additional premium would not be due until the end of the policy period.

The individuals refusing to pay the additional premiums to cover their vastly greater earnings have now left PRASIS. Should there be a previously notified circumstance against them which develops, they may well suffer increased personal financial liability, and risk a potential adverse impact on their ability to gain indemnity in the future, as well as vulnerability to probity concerns and reputational damage.

Summary Benefits of PRASIS

Stability and security should be the overriding considerations which drive a choice of indemnifier and we believe that our current Underwriters and Broker provide these.

This is particularly the case in such challenging times as the present, in which Covid-19 is generally reducing capacity in the Insurance market and affecting the ability of those left to take on risks, leading to large increases in premiums for some professional groups and great difficulties in securing any cover at all for others.

PRASIS creates and provides a community for plastic surgeons who have shared core values based on their training and working practices, and for this reason PRASIS members are viewed as a safer group, and therefore an attractive risk for insurance companies.

Whilst PRASIS has lost small number of members in the last year, it has also taken on new members during this period.

PRASIS is also unique in having a Clinical Board, all of whom are senior plastic surgeons, and who provide their insights and influence to the wider team.

Members of the Clinical Board are always pleased to provide clinical advice to PRASIS members, and when appropriate to act as advocates for them in their dealings with the Brokers and Underwriters of PRASIS. To do this requires the member's written consent for disclosure to the Clinical Board Member(s) of the full background information relating to the issue in question - be it a clinical matter, or a matter relating to the member's policy (eg their premium).

In addition to this and as outlined above PRASIS supports educational activities and opportunities for its members for their benefit in particular, and more widely to benefit the Plastic Surgery community as a whole.

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