



Protecting Plastic Surgeons

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Message from the PRASIS Chair Anita Hazari

Many of you have been curious about the processes that take place in the 'back room' with the brokers and underwriters when your application is submitted for renewal and we have taken this opportunity to outline the steps in the renewal process in the broker's section.

Some of you may have patients who are high-profile or high net-worth. Nilesh Bathia, one of the Medicolegal advisers and Partner with Weightmans LLP explains why these patients can affect your indemnity. Notifying these cases is an important part of your duty to disclose material facts and the brokers and underwriters will work with you to ensure you are fully protected at all times. Also included under the MPI Group section are important and useful items: *red flags / notifications guide* of circumstances which you should notify; and *tips on avoiding litigation*.

Continuing the PRASIS commitment to improve our understanding of the medico-legal process and reduce litigation, we are delighted to announce that the next educational day for Consultants - '**Mediation and Resolution**' will be held on **Saturday 1 December 2018, at the offices of CFC Underwriting Ltd in, London**. The programme flyer is included in the newsletter. **I would urge you to reserve your place on this FREE course to avoid disappointment**. As the **Dermatoscopy training day** on 16 November 2017 in Leeds led by PRASIS Board member Howard Peach and his dermatology colleagues was a great success, it will be repeated again in **November 2018**.

Some of you may have niche or specialist courses that you provide at a cost. If you think the membership would benefit from your course, PRASIS would be interested in funding this course for its members, please get in touch with me.

To register your interest for either of the above educational days, please email Helen Roberts: helen.roberts@bapras.org.uk. Both days are **FREE to PRASIS members**.

If you have any issues you would like to discuss or be addressed, please contact me: anita.hazari@nhs.net | 07984 288986

Saturday 1 December 2018 - London

Weightmans LLP: Nilesh Bathia

Treating High Net Worth Patients

PRASIS members often query why patients with a high public profile or high net worth individuals are of more interest to insurers and why they should be treated differently to any other patient?

The starting point is that, in most cases, insurers deem this information a material fact, i.e. one that would influence their decision making process, therefore you have a legal obligation to disclose such information to your insurers (irrespective of which insurer provides your indemnity). The rationale behind this is to determine cover and if granted to manage the particular nuances that these particular patients bring, including ensuring that your documentation, standard procedures and consent process are as robust as they can be. The focus will be risk management as opposed to interfering with your clinical judgment and practice since, in the unlikely event of a claim by this class of patient, the consequences can be significant, both in terms of reputational damage to you (regardless of whether there is any liability), along with the additional stress and potential loss of income. Therefore, it is in your best interest to ensure your underwriters are closely apprised and involved.

The additional thing to bear in mind is that in the case of a patient who, for example, is reliant on their looks to make their living, such as a model, or their hands, such as a rock guitarist, if he or she is unable to ply their trade as a result of an issue arising from treatment, there can be considerable financial consequences and a claim for loss of earnings for life could result in a significant claim under your policy. Due to recent changes in the way that damages in clinical negligence and personal injury claims are calculated, the potential for a claim to reach the limit of your indemnity also has to be considered and it might be appropriate to purchase top-up indemnity, which can be facilitated by your broker.

As outlined, there are a number of good reasons why you need to communicate with your underwriters before treating this class of patients so that you can receive approval and the appropriate risk management support, in good time before the treatment is provided.

As a practical point, if you are ever unsure as to whether a patient falls within this category or not, I would urge you to err on the side of caution and pick up the phone to your broker in the first instance, who will facilitate a dialogue with your underwriters.

MPI Group Ltd (a division of Stackhouse Poland Ltd): Hugo Merison and Anna Painter

The brokerage team at Medical Professional Indemnity Group (MPI Group) send your policy renewal documentation to you for completion around 8 weeks prior to your renewal date, in order to allow plenty of time for you to gather and/or discuss any details required for your renewal.

The MPI Group are on hand to assist with any queries that you may have regarding your insurance renewal or with the completion of your renewal documentation. It is advisable, if you have had any circumstance or potential claim in the last 12 months or if your private practice has changed significantly from the previous year, that you submit your renewal documentation as early as possible to allow for adequate review.

Upon receipt of your renewal documentation, the MPI Group must review this against the details already held, together with gathering relevant updates on any claims with previous indemnity providers. This can sometimes take a while depending on the nature of the matter

and/or the provider that the information is requested from. Therefore, it is advisable to provide as much information as possible, and as early as possible, in order for these checks and requests to be carried out prior to submitting your documentation to the underwriters for your renewal quotation.

On occasion, once all the information is submitted to the underwriters, they may require some additional clarification of information contained in your renewal documentation or regarding any ongoing matters. We work closely with the underwriters to ensure a smooth as possible turnaround for your renewal and will provide updates as to the status of your quotation as required.

Should you have any queries regarding your policy renewal process then please do not hesitate to contact the team at MPI Group.

There is the potential for confusion and uncertainty around when a claim should be notified to your insurers. The terminology, “If you become aware of any circumstance which may reasonably be expected to give rise to a claim under this Policy you” is standard insurance language and to avoid any confusion and in an effort to assist we have prepared the following list that should give a better understanding about notifying the Medico-Legal helpline should you find yourself in any of these situations:

Please note that this list is issued as guidance only and is not exhaustive. If a particular circumstance does not appear on the list, it does not mean that you do not have a duty to report it. If you are unsure, then please contact the Medico-Legal helpline for advice.

First awareness/prelude to a Claim?

- A verbal complaint, for example a patient who intimates or expresses dissatisfaction irrespective of the outcome of a procedure or consultation.
- A breakdown of the relationship with a patient, for example where a patient refuses contact or further treatment.
- When a patient expresses underlying issues – comments such as “I’m stressed / depressed” during the course of treatment.
- A verbal attack against any of the medical team involved in the treatment of a patient.
- A written complaint to the surgeon or the private hospital in relation to the patient’s pre-operative, peri-operative or post-operative management.
- A patient or solicitor’s request for medical records.
- A solicitor’s letter confirming that they have been instructed by one of your patients
- Any other forms of investigation - police/CQC/GMC/NHS/private practice/coroner’s inquest.
- Any formal letter of complaint/claim from a patient or solicitors instructed by a patient.
- A patient avoiding payment.
- A suspension or restriction of practising privileges imposed by a private hospital.

- A breach of patient data - loss or theft of computer/ work camera, loss of patient notes etc. including any claim for breach of privacy.
- Any claim for defamation resulting from advice, report or expert witness services provided within the scope of your medical and clinical professional services.
- Any claim for costs and expenses incurred in respect of the Health and Safety at Work Act 1974, Criminal Proceedings, a Tax enquiry or Contractual, Employment and Property Disputes.

Clinical circumstances

- A cardiac arrest whilst in theatre.
- Loss of an implant.
- Loss of a flap.
- Any serious, unexpected or unintended complication of surgery, whether or not the patient has complained: for example a partial or total loss of the nipple areolar complex after breast reduction surgery.
- Any circumstances where more than one revision procedure is required.
- If an incorrect operation is performed.
- Any damage to facial nerve or branch paresis.
- Communication is key – if you have established an open and honest relationship with your patients from the outset the likelihood of resultant litigation is reduced
- You must have a good standard of record keeping. Clearly record the advice you give on every occasion. Write legibly.
- Make sure that a patient is asked to provide a written receipt for any supporting literature that has been provided to them.
- Keep up to date with all relevant literature / standards pertaining to the area in which you practise.
- Ensure you have appropriate systems ensuring the safety and security of all confidential material – whether that be written or electronic.
- When things might have gone wrong ensure immediate engagement with your insurers so that matters can be acknowledged and the relevant complaints process activated.
- Gather all relevant information and provide a comprehensive account of events to your insurers.

To download the PRASIS code of practice, please click on the link below:

http://prasis.co.uk/support_guidance/best_practice/prasis_code_of_practice_2017.aspx

Medicolegal advice

Please check your policy and call the appropriate 24 hour Medico Legal helpline for advice. You must report all circumstances which may reasonably be expected to give rise to a claim.

For policies underwritten by CFC Underwriting Ltd contact:

Weightmans LLP
1st Floor
Temple Row
Birmingham
B2 5AF

Tel: 0845 0131574

Email: surgeon.helpline@weightmans.com

INCIDENT RESPONSE HOTLINE (CYBER & PRIVACY cover only): In the event of an actual or suspected privacy breach (e.g. you lose your laptop or your computer is compromised in any way) please call our free emergency 24-hour Data Breach Hotline: 0800 975 3034.

For policies underwritten by W. R. Berkley Syndicate Management Limited (WRB) contact:

MPI Group Ltd
Plough Court
37 Lombard St
London
EC3V 9BQ

Tel: 0845 5194393

Email: advice@mpi.group

Notification of adverse events

The Indemnity Schemes arranged by PRASIS provide members with indemnity for costs and damages incurred in clinical negligence claims, through claims made insurance policies. You must report all circumstances which may reasonably be expected to give rise to a claim to the appropriate 24 hour Medico Legal Helpline, as soon as it is reasonably practicable. Your policy will also provide other covers such as Public Liability, and these claims should also be notified to the same helpline. Please refer to your policy documentation for full details of the policy cover, terms and conditions, which will also include details of the Medico Legal helpline that is applicable to your policy.

Failure to notify cases or to co-operate with the claims management team may jeopardise the indemnity available.

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