

# Run Off Cover Scheme (ROCS) Insurance Policy

Combined Financial Services Guide and  
Product Disclosure Statement



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# Combined Financial Services Guide and Product Disclosure Statement

## Section 1

### Financial Services Guide

#### Introduction

This financial services guide (FSG) is intended to assist you in deciding whether to obtain any of the financial services that Avant Insurance Limited ABN 82 003 707 471 and AFS Licence 238765 is authorised to provide or arrange under its AFS Licence.

When reading this FSG and the Run Off Cover Scheme (ROCS) Insurance Policy, 'the insurer', 'we', 'our' and 'us' will mean Avant Insurance Limited.

The FSG is designed to:

- assist you in understanding what you can expect when you contact us regarding one of our financial services;
- advise you about the remuneration we, our staff and any other related persons receive in connection with the financial services we provide;

- describe how we deal with any complaints; and
- provide you with key contact details and information about how to lodge a complaint.

A copy of this FSG will generally be provided to you when we provide personal financial services to you or you obtain a financial product from us.

#### What financial services do we offer?

We provide general insurance products.

We are an Australian Prudential Regulatory Authority (APRA) regulated insurer holding an Australian Financial Services Licence authorising us to provide financial product advice in relation to, and deal in, general insurance products. These products are underwritten by us.

We provide these products and related services through our trained employees and authorised representatives.

#### How are we and our staff remunerated?

We are paid a fee by Medicare Australia to reimburse the ongoing costs associated with administering medical indemnity support schemes on behalf of Medicare Australia and the Commonwealth Government (the government).

We may pay a member access fee to Avant Mutual Group Limited ABN 58 123 154 898

(Avant). The payment of this fee does not affect the amount of any benefit under our policies.

We receive a monthly management fee from other companies within the Avant group of companies.

Further details of fees or costs associated with the issue of our products, if any, are contained in our product disclosure statement in Section 2.

All staff employed by us receive salaries. Our staff do not receive commissions. Some of our staff may receive an incentive or bonus payment based on meeting business targets.

Medicare Australia is a government statutory authority. We administer a number of medical indemnity support schemes on behalf of this authority and receive administration fees for doing so.

We may pay referral fees or commissions to licensed brokers or other intermediaries with whom we may enter into an agreement to distribute our products.

We may receive referral fees or commissions from licensed brokers or other service providers with whom we may enter into an agreement to offer members other financial services.

#### Related documents you may receive

You may also receive other documents when we provide you with financial services in relation

to one or more of our financial products. In the ordinary course of our business, we will only provide general financial product advice. Our staff do not take personal circumstances into consideration when providing general financial product advice.

### **Product disclosure statement (PDS)**

A PDS will be provided to you when we provide, arrange or issue a financial product other than for wholesale products and there has been a change in PDS since it was last issued to you.

The PDS will contain information about the financial product, including its features, benefits, risks, exclusions and any fees or costs associated with the product to enable you to make an informed decision about it. The PDS also contains information about the Premium Support Scheme. This government scheme helps eligible doctors with the costs of their medical indemnity insurance.

### **How is my personal information dealt with?**

We collect personal information from you in order to ensure the financial products provided to you are tailored to suit your needs and may share this information with other companies within the Avant Group. In addition we may be required to provide information to federal or state governments. We will maintain records of your personal information.

The privacy of your personal information is important to us. We will ensure that all your personal information collected by us is treated in accordance with the *Privacy Act 1988* (Cth).

Our privacy policy is posted on our website at [www.avant.org.au](http://www.avant.org.au). If you wish, you can request a printed copy of the policy by contacting our Member Services team on 1800 128 268.

### **What if I have a complaint?**

If you have any complaints about the product or service provided to you, then you should inform us immediately. Our service staff should be able to resolve the issues you raise satisfactorily. However, if the matter has not been resolved to your satisfaction you may, under our internal dispute resolution (IDR) process, forward a complaint to us.

A copy of our dispute resolution procedure can be obtained either from our website or by contacting our Member Services team on 1800 128 268.

If your complaint is not satisfactorily resolved or answered by our IDR process you may refer the matter to the Financial Ombudsman Service (FOS). We are a member of the independent dispute resolutions service the FOS provides.

If you wish to make a complaint to the FOS please contact our Member Services team on 1800 128 268.

# Section 2

## Product disclosure statement

### What is a product disclosure statement (PDS)?

This PDS will assist you in making an informed choice about your insurance requirements. This PDS must be read in conjunction with the Practitioner Indemnity Insurance Policy. The insurance policy forms part of this PDS.

Please keep this PDS and policy in a safe place.

### Who is the insurer?

Avant Insurance Limited ABN 82 003 707 471 AFS Licence 238765 is the insurer and the issuer of this PDS and policy.

When reading this PDS and the Run Off Cover Scheme (ROCS) Insurance Policy, 'the insurer', 'we', 'our' and 'us' will mean Avant Insurance Limited.

Our contact details are as follows:

Avant Insurance Limited  
Level 28 HSBC Centre, 580 George Street  
Sydney NSW 2000  
PO Box 746, Queen Victoria Building NSW 1230  
DX 11583 Sydney Downtown

Phone: Freecall 1800 128 268  
Fax: Freefax 1800 228 268  
Email: [memberservices@avant.org.au](mailto:memberservices@avant.org.au)  
Website: [www.avant.org.au](http://www.avant.org.au)

### Who is the insurer's representative?

The Medical Defence Association of Victoria Limited ABN 59 004 046 379 AFS Licence No 253047 (MDAV) is our authorised representative. MDAV's authorised representative number is: 253047.

### What is the ROCS Insurance Policy?

The Australian Government introduced the Run-Off Cover Scheme (ROCS) on 1 July 2004 to provide run-off (or 'tail') cover free of charge to doctors who have ceased private medical practice and who satisfy specified eligibility criteria, and to the estates of deceased doctors.

Under ROCS, the government guarantees to pay the cost of medical indemnity claims against eligible doctors covered by the scheme.

When a doctor becomes eligible for ROCS cover, their last medical indemnity insurer issues a ROCS insurance policy. The government will reimburse the insurer for any valid claims it pays under that ROCS policy.

### When are you eligible for the ROCS Insurance Policy?

A medical practitioner becomes eligible for ROCS when they:

- Are 65 or over and have retired from private practice; or
- Are 65 or over and have retired from all medical practice; or
- Are under the age of 65 who have not engaged in private practice at any time for the preceding period of three (3) years; or
- Are under the age of 65 who have not engaged in medical practice at any time for the preceding period of three (3) years; or
- Have ceased practising due to permanent disability; or
- Are deceased (their estate is eligible for ROCS); or
- Leave Australia after working under Visa Class 422 or 457 and who have left Australia permanently; or
- Are on maternity leave.

### Preserving your eligibility

ROCS indemnifies medical practitioners who have ceased private practice. Engaging in any private practice for payment immediately cancels your eligibility. You will not be covered

for any claims notified after the date that your eligibility ceased.

You should be aware that your ROCS policy will cease if:

- you perform even one paid consultation or locum session; or
- you work in a public hospital and the hospital bills against your Medicare provider number; or
- you write a prescription and claim it against your Medicare provider number.

### **Working in the public sector**

If your eligibility for a ROCS policy is based on maternity leave or permanent disability you cannot engage in any paid medical practice including practice in the public sector.

If you are eligible for ROCS on the grounds of having ceased all medical practice and you return to work in the public sector, you are expected to inform Avant Insurance that your circumstances have changed so that we can change your eligibility category and in turn inform Medicare Australia.

If you are eligible on the grounds of having ceased private medical practice, working in the public sector does not affect your eligibility status. You should inform us though if and when you cease all medical practice.

### **Providing medical services at no cost**

As long as you do not receive any payment or gratuity you may provide medical services without jeopardising your ROCS eligibility. However, as ROCS does not cover you for any current practice it would be prudent to consider additional cover. If you wish to obtain insurance for these gratuitous medical services, please contact our Member Services team on 1800 128 268.

### **Covering a period of past medical practice that was not indemnified**

If your last policy held with us included additional retroactive cover to protect a gap in your past cover, that gap will also be covered by your ROCS policy. (Additional retroactive cover is clearly stated on your last policy schedule.)

However, if there is a gap in your indemnity history that you did not cover with your last insurance policy with us, you could be personally exposed in the event of a claim. You can protect yourself:

- if you are keeping a Practitioner Indemnity Insurance Policy (such as for continuing unpaid healthcare) with us – by adding additional retroactive cover to that; or
- by arranging an Practitioner Indemnity Run-off Insurance Policy (PIRO) with us. After you

have held the PIRO for a year, the cover can be transferred to your ROCS policy.

If you require further information about this, please contact our Member Services team on 1800 128 268

### **Where can I find further information regarding ROCS?**

ROCS is detailed in two Commonwealth Acts, their subsidiary regulations and a ministerial determination:

- the *Medical Indemnity Act 2002* (Cth) (see particularly Division 2B of Part 2);
- the *Medical Indemnity (Prudential Supervision & Product Standards) Act 2003* (Cth) (see particularly Division 2A of Part 3);
- *Medical Indemnity Regulations 2003*; and
- *Medical Indemnity (Prudential Supervision and Product Standards - Terms and Conditions for Run-off Cover) Determination 2004*.

### **What does this ROCS Insurance Policy cover?**

Subject to the policy wording, the ROCS Insurance Policy indemnifies a medical practitioner for:

- Part A – Professional indemnity insurance, including legal defence costs for claims first made against you during the period of

eligibility, which relate to healthcare provided by you during the run-off period specified on your policy schedule.

- Part B – Legal fees and expenses cover, for proceedings, commissions, inquiries, disciplinary, coronial and criminal matters, where you notify us of these matters in the period of eligibility and which relate to healthcare provided by you during the run-off period specified on your policy schedule.

The policy does not cover you for any healthcare you provide after the run-off period specified on your policy schedule. If you are still providing healthcare, including gratuitous medical services, you should purchase a Practitioner Indemnity Insurance Policy.

The terms and conditions of the policy are set out in sections 5, 6 and 7 of this booklet.

### Exclusions

There are a number of situations in which we do not cover you. They are contained in Section 5 under the headings 'Exclusions – Part A' (clauses 12 to 14 and 'Exclusions – Part B' clause 21 of the policy. You should ensure that you fully understand these exclusions and if you do not please contact our Member Services team on 1800 128 268.

Of particular importance, the policy excludes:

- (a) any civil liability in respect of claims against you where the healthcare was provided by you outside of the run-off period specified in the policy schedule;
- (b) any civil liability in respect of claims against you for the provision of healthcare treatment, advice and services to public patients, except where this cover has been previously agreed by us and this agreement has been reflected in a special endorsement to your policy. If you believe you require such an endorsement please contact our Member Services team on 1800 128 268;
- (c) legal fees and expenses covered under Part B of the policy, where the healthcare was provided by you after the run-off period specified in the policy schedule.

### Sum insured

The sum insured under this policy is limited to the maximum amount and stated sub-limits for the aggregate amount of all claims in the period of policy cover, as set out on your policy schedule for each part of the policy.

This is the maximum amount payable by us under this policy. Where the same healthcare incident gives rise to more than one claim under the policy, all such claims will be considered a single claim under the policy.

### Claims made policy

Part A of the policy covers you for claims first made against you and notified to us within the period of eligibility where the healthcare incident giving rise to the claim occurred during the run-off period specified in the policy schedule.

Part B of the policy provides legal fees and expenses cover, in respect of proceedings, disciplinary, coronial and criminal matters, where you notify us of these matters in the period of eligibility and which relate to healthcare provided by you during the run-off period specified on your policy schedule.

There is a requirement that the notification giving rise to the need for the legal fees and expenses cover be received by you and notified to us during the period of eligibility, but it is not a requirement that the proceedings commence or are completed during the period of eligibility.

### How do I apply for insurance?

The estate of a deceased doctor will need to provide us with a copy of the death certificate and the name of the legal representative.

All other practitioners need to complete an Eligibility Declaration form, available by contacting our Member Services team [memberservices@avant.org.au](mailto:memberservices@avant.org.au) or by calling 1800 128 268.

You may be required to supply supporting evidence, as indicated against the eligibility categories which follow.

Approval is subject to review by our Underwriting Department. We will advise you of the outcome of your application.

### **Making changes to your policy and providing up to date information**

You must notify us if:

- if your personal details change; or
- if you return to practice and require cover; or
- if you are no longer eligible for ROCS; or
- if you require changes to your cover; or
- in the event of any other changes to your circumstances; or
- of any incidents that may give rise to a claim; or
- of any investigation or proceedings against you.

In most cases, you can notify us by contacting our Member Services team on 1800 128 268. If we require you to give us notification in writing we will inform you once you contact us. You must notify us as soon as practicable. Failure to do so may result in you not being covered by this policy.

### **Your policy**

When we accept your application, we enter into a contract of insurance with you. Your contract of insurance comprises:

- this PDS and policy, and any supplementary PDS and policy, which may be issued to you;
- the category of practice guide;
- your policy schedule;
- our letters of offer to you; and
- your eligibility declaration.

You must read each of these important documents carefully and keep them together in a safe place.

### **Your policy schedule**

Your policy schedule is our confirmation to you that we have accepted your insurance application. It details any special conditions which may apply to you and specifies your personal details, your professional practice details, sums insured, sub-limits, deductibles and any insurance options chosen by you as well as the period of eligibility. It will also show you the run-off period.

Please check your policy schedule to ensure that all the details are correct and that you have the insurance cover you require. It is especially important that you check that the run-off period is sufficient to cover all your past practice.

### **Deductibles**

Your deductible, if any, is the amount that you must contribute to any claim you make on your policy which we accept as a valid claim. You may have a deductible specified in your policy schedule or applicable under a condition of your policy. The deductible is payable by you before we have any liability to meet a claim.

### **Special conditions**

Special conditions may be applied to your policy. These conditions may relate to, but not be limited to, healthcare or healthcare incidents that we may not cover or deductibles which may apply to your cover.

### **Cooling off period**

Please read the documents that make up your contract of insurance carefully. If you decide that your policy does not meet your requirements, you can cancel it by notifying us in writing or electronically within 14 days, starting at the end of the fifth day after the day on which the policy was issued or sold to you.

However, your cancellation rights do not apply if, during the cooling off period under your policy, you:

- have made a claim; or
- notified us of an incident, complaint or matter.

## Your duty of disclosure

Under the *Insurance Contracts Act 1984* (Cth), before you enter into a contract of insurance with us you have a duty to disclose every matter that you know- or could reasonably be expected to know- which is relevant to our decision to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to us before you renew, extend, or vary your insurance policy with us.

Disclosure is not limited to matters applying to you under your insurance contract with us, but includes other past businesses or private insurance. However, you do not have to tell us about:

- a matter that diminishes the risk undertaken by us; or
- a matter that is considered to be common knowledge; or
- facts that we know or should know in the ordinary course of business; or
- matters that we tell you we do not need to know.

If in doubt you should disclose a matter to us.

## Non-disclosure

If you fail to comply with your duty of disclosure, depending on the prejudice caused by your failure to comply, we may:

- reject your claim or request for legal fees and expenses; or
  - reduce our liability in respect of a claim, complaint or matter; or
  - cancel the policy.
- If your non-disclosure is fraudulent, we may avoid the policy entirely (that is, we may treat the policy as never being of any force or effect).

## Personal information and your privacy

We may require you to provide certain personal information to determine your eligibility for membership of Avant Mutual Group Limited, for insurance and for the provision of ongoing services. We may provide your personal information to other entities in the Avant group of companies. This information may be used to offer, provide, develop and improve our product. We may use this information to satisfy membership and insurance queries at the time of initiation of a claim, complaint or action against you.

If you choose to take advantage of any government support scheme, some of the

information provided to us will need to be passed on to the relevant government department for the request to be processed.

We are committed to supporting our legal obligations regarding your privacy. A copy of our Privacy Policy can be viewed on our website at [www.avant.org.au](http://www.avant.org.au), or obtained by contacting our Member Services team on 1800 128 268.

## Our dispute resolution process

If you have any complaints about the product or service provided to you, then you should contact our Member Services team on 1800 128 268.

Our staff should be able to resolve the issues you raise to your satisfaction. If the matter has not been resolved to your satisfaction you may, under our internal dispute resolution (IDR) process, forward a complaint to us. A copy of our dispute resolution procedure can be obtained either from our website at [www.avant.org.au](http://www.avant.org.au) or by contacting our Member Services team on 1800 128 268.

If your complaint is not satisfactorily resolved or answered under our IDR scheme you may refer the matter to the Financial Ombudsman Service (FOS), which independently operates the external dispute resolution procedure of which Avant Insurance is a member. If you wish to make a complaint to the FOS you can contact our Member Services team on 1800 128 268.

## Section 3

### Definitions

<b>Avant Law</b>	Avant Law Pty Limited (ACN 136429153), an incorporated legal firm which is part of the Avant Group of companies.
<b>category of practice</b>	The category which is specified in your policy schedule.
<b>claim</b>	A demand for, or an assertion of a right to compensation or damages or an intimation of an intention to seek compensation or damages in relation to a healthcare incident which: (a) is first made against you during the period of eligibility; and (b) you tell us about in writing during the period of eligibility.
<b>clinical trial</b>	A clinical trial or research project approved by a properly constituted ethics committee in accordance with National Health and Medical Research Guidelines and conducted in accordance with any conditions and approvals made by that ethics committee.
<b>complaint</b>	An allegation of unlawful or actionable conduct or an allegation of misconduct or unsatisfactory conduct.
<b>cosmetic procedures</b>	Operations, procedures and treatments that revise or change the appearance, colour, texture, structure or position of normal bodily features with the sole intention of improving the patient's appearance or self-esteem. It includes non-surgical cosmetic medical procedures and cosmetic surgical procedures.
<b>extreme activities</b>	Sports or activities of an extreme or risky nature, including but not limited to any form of: high risk sport, boxing, martial arts, motor racing, motor cycle racing, demolition derbies, karting, horse riding or racing, parachuting, base jumping, bungee jumping, hang-gliding, glider flying, microlight aircraft flying, para-sailing, mountaineering, abseiling, potholing, diving, downhill skiing, water skiing, white water rafting, archery, any activity involving the use of firearms, firework demonstrations and any recreational activity held in a geographically remote location.
<b>final policy</b>	Your last medical indemnity cover issued to you and underwritten by Avant Insurance Limited.
<b>Good Samaritan act</b>	A healthcare act that is performed by you in coming to the aid of a person in an emergency or accident that is necessary to stabilise that person's medical condition or to prepare that person for transfer, without expectation of payment or other consideration.

<b>healthcare</b>	<p>Any care, treatment, advice, service or goods provided by you as a healthcare professional in respect of the physical or mental health of a patient, and includes:</p> <ul style="list-style-type: none"> <li>• a medical examination, medical report or medical opinion prepared by you at the request of a third party, such as a lawyer, insurer or statutory body;</li> <li>• giving a paid presentation or address or the publication of an article written by you in a newspaper, newsletter or journal to the extent that it provides medical information or healthcare advice;</li> <li>• any care, treatment, advice, service or goods provided to a patient under your supervision by another person who you are observing, supervising, mentoring or teaching, but if the other person is a healthcare professional they must hold their own professional indemnity insurance at that time;</li> <li>• any care, treatment, advice, service or goods provided to a patient under your supervision by another person who you are observing, supervising, mentoring or teaching, but if the other person is a healthcare professional they must hold their own professional indemnity insurance at that time;</li> <li>• any care, treatment, advice, service or goods provided by you to a person in an emergency that is necessary to stabilise that person or to prepare that person for transfer notwithstanding that it is not normally associated with your category of practice; or</li> <li>• any care, treatment, advice, service or goods provided by a locum covering your patients to these patients while you are absent from your practice if he or she holds his or her own professional indemnity insurance at that time.</li> </ul>
<b>healthcare incident</b>	<p>Any act, error or omission by you or by others you are supervising for which you are legally liable and which adversely affects a patient; or an unexpected complication or injury occurring to a patient under your care as a result of or during the provision of healthcare.</p>
<b>healthcare professional</b>	<p>An individual who:</p> <ul style="list-style-type: none"> <li>(a) provides <ul style="list-style-type: none"> <li>(i) healthcare; or</li> <li>(ii) expert reports or advice on matters relating to healthcare or medico-legal matters; or</li> <li>(iii) acts in an administrative capacity in relation to healthcare services; and</li> </ul> </li> <li>(b) is <ul style="list-style-type: none"> <li>(i) a legally qualified medical, dental, or healthcare practitioner registered in accordance with the laws of the Commonwealth, a state or a territory of Australia; or</li> <li>(ii) any healthcare professional who is practising in a recognised vocation in Australia.</li> </ul> </li> </ul>

<b>healthcare training program</b>	A training program where you are being supervised or trained as a healthcare professional for the purpose of registration, specialist recognition or ongoing education.
<b>legal defence costs</b>	The necessary and reasonable costs of investigating, defending or settling a claim made against you and covered by this policy.
<b>legal fees and expenses</b>	The necessary and reasonable fees and expenses incurred in the defence, pursuit, conduct of or response to matters covered by Part B of this policy.
<b>locum</b>	A healthcare professional engaged by you as an employee or independent contractor to temporarily cover your practice during your absence from it.
<b>medical indemnity cover</b>	Insurance which meets the requirements of section 4 of the <i>Medical Indemnity Act 2002</i> (Cth).
<b>medical practitioner</b>	A person who was registered to practise medicine in accordance with the laws of the Commonwealth, state or territory of Australia in which that person practised and who fulfils one or more of the eligibility criteria for the Run-Off Cover Scheme specified in section 34ZB(2) of the <i>Medical Indemnity Act 2002</i> (Cth).
<b>other person</b>	a person including but not limited to: an accountant, an actuary, an expert witness, a witness as to fact, or any other person required to assist us in any matter covered under this policy.
<b>period of eligibility</b>	The period when you fulfil one or more of the eligibility criteria for the Run-Off Cover Scheme specified in section 34ZB(2) of the <i>Medical Indemnity Act 2002</i> (Cth).
<b>policy schedule</b>	The current schedule to this policy.
<b>practice entity</b>	Any corporate entity that is in the business of providing healthcare and which is wholly controlled or wholly owned by you.
<b>practice staff</b>	A person working in your practice, other than a medical practitioner, who is supervised or instructed in their activities by you (but there is no cover for such a person in relation to cosmetic procedures); or a locum or covering practitioner who is in the same category of practice as you acting on your behalf in your absence, subject to that locum or covering practitioner holding their own professional indemnity insurance at the time of the incident.
<b>public patient</b>	A person to whom a hospital or area health service has agreed to provide medical care free of charge, including all necessary medical, nursing and diagnostic services.

<b>relevant legislation</b>	<i>The Medical Indemnity Act 2002 (Cth) (see particularly Division 2B of Part 2), Medical Indemnity Regulations 2003, Medical Indemnity (Prudential Supervision &amp; Product Standards) Act 2003 (Cth), (see Division 2A of Part 3), Medical Indemnity (Terms and Conditions) Determination 2004, Medical Indemnity (Run-Off Claims and Administration) Protocol 206 (No.2) and relevant Ministerial Determinations.</i>
<b>run-off cover scheme or ROCS</b>	The run-off cover scheme detailed in Division 2B of the <i>Medical Indemnity Act 2002 (Cth)</i> .
<b>run-off period</b>	The period of cover specified in your policy schedule as the period of practice covered under this policy.
<b>sole healthcare professional</b>	A healthcare professional who is the sole proprietor of the business and there is no other medical practitioner practising in the business or employed by the business (except for a locum covering your patients while you are absent from your practice).
<b>special deductible</b>	A deductible that is imposed by an endorsement to the policy.
<b>the lawyer</b>	The legal practitioner or other person contracted by Avant Insurance to provide legal services to it.
<b>unpaid healthcare</b>	Any care, treatment, advice, service or goods provided by you as a healthcare professional in respect of the physical or mental health of a patient and which is restricted to: <ul style="list-style-type: none"> <li>• a Good Samaritan act;</li> <li>• unpaid healthcare limited to the writing of a prescription or a referral;</li> <li>• giving an unpaid presentation or address or the publication of an article written by you in a newspaper, newsletter or journal to the extent that it provides medical information or healthcare advice;</li> <li>• any care, treatment, advice, service or goods provided by you as an unpaid volunteer, but excluding any care, treatment, advice, service or goods provided in relation to an extreme activity.</li> </ul>
<b>unpaid volunteer</b>	A person who provides healthcare without expectation or entitlement to payment or other consideration, apart from reimbursement or receipt of reasonable expenses such as airfares, accommodation or meal allowances.
<b>us, we and our</b>	Avant Insurance Limited ABN 82 003 707 471 and AFS Licence 238765
<b>you, your</b>	The healthcare professional named as the insured on the policy schedule or the insured's practice entity.

# Section 4

## Sum insured

The maximum sum insured under this policy for any one claim and for all claims in the aggregate in any period of eligibility is \$20 million. This includes legal defence costs. This sum insured is subject to sub-limits as set out below:

<b>Part A- Professional Indemnity Insurance Cover</b>	<b>Amount in the aggregate for all claims in the period of eligibility</b>
Maximum sum insured for claims including legal defence costs incurred with our consent and any claimant's legal costs that you have been ordered to pay	\$20 million for medical practitioners

  

<b>Part B- Legal Fees and Expenses Cover</b>	<b>Amount in the aggregate for all claims in the period of eligibility</b>
Division 1 – Cover for disciplinary, coronial and criminal proceedings and investigations	\$500,000
Division 2 – Cover for other actions, complaints, proceedings and inquiries	\$150,000

# Section 5

## Policy Wording

### Introduction

1. Some of the words used in this policy are specially defined. These words appear in **bold** type and their meanings are explained in the Definitions (Section 3).
2. This policy provides run-off cover for **medical practitioners** who have ceased private practice and are eligible for run-off cover under the **Run-Off Cover Scheme**.

### Part A – Professional indemnity insurance cover

#### Division 1 – Cover for all medical practitioners

3. **We cover you** for amounts which **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** against **you** in relation to **unpaid healthcare** where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**.

#### Division 2 – Cover for medical practitioners working in private practice

4. In addition to the cover provided in Part A Division 1 **we cover you** for amounts which **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** against **you** in relation to **healthcare** in private practice where **you** have declared to **us** the gross billings **you** generated in the **run-off period** and where the **healthcare** provided was of a type normally associated with **your category of practice** and where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**.

#### Automatic Extensions

*Cover for practice staff of sole healthcare professionals*

5. If **you** were a **sole healthcare professional we** will cover **your practice staff** for **claims** and **legal defence costs** made against them for **healthcare** provided by them under **your** supervision or instruction, other than in respect of **cosmetic procedures** performed by them, where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**. There will be no such cover if **you** had more than:

- (a) one full-time equivalent staff member who provided **healthcare to your** patients (such as a nurse); or
- (b) two full-time equivalent administration staff (such as a receptionist or practice manager whose duties were solely administrative).

*Cover outside of Australia*

6. **We cover you** for amounts that **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** made against **you** in relation to **healthcare** or **unpaid healthcare** provided by **you** outside of Australia, or in relation to court or other proceedings that are made or held outside of Australia, where:
  - (a) the period **you** were outside of Australia, whether or not **you** were practicing, was less than one hundred and twenty (120) days in any prior policy period whether continuously or in aggregate; or
  - (b) **you** were participating as a trainee in a **healthcare training program** that was for a period of less than two (2) years; or

- (c) the act was a **Good Samaritan act**, for which **you** are covered worldwide.

Cover extended under subsections (a) and (b) of this clause excludes **claims**: that arise as a result of **healthcare** or **unpaid healthcare** provided by **you** in the United States of America ('the USA') or involving proceedings brought in a court or tribunal of the USA, or any court or tribunal which is applying the law of the USA.

#### *Clinical trial cover*

7. **We** cover **you** for amounts **you** become legally liable to pay as compensation for civil liability including **defence costs** in respect of **claims** made against **you** in relation to **healthcare** provided by **you** as a result of **your** participation in a **clinical trial**, where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period** and where:
- (a) the **clinical trial** had been approved by a properly constituted ethics committee registered with the National Health and Medical Research Council; and
- (b) the **clinical trial** was conducted in compliance with the guidelines, conditions and approvals set by the ethics committee; and

- (c) the **clinical trial** is one that did not involve pregnant women, gene therapy, stem cells or children under the age of sixteen (16) years unless **you** had advised **us** and **we** agreed to provide cover, for an additional **premium** (if **we** required **you** to pay one).

### **Division 3 - Optional covers**

#### *Volunteer extreme activities optional cover*

8. If **you** selected volunteer optional cover for **extreme activities** under **your final policy** and those activities were listed on the **policy schedule** of **your final policy** then **we** will cover **you** in respect of **claims** against **you** in relation to **healthcare** provided by **you** on an unpaid voluntary basis for those **extreme activities** listed on the **policy schedule** of **your final policy** where the **healthcare incident** giving rise to the **claims** occurred during the **run-off period**.

#### *Public patient optional cover*

9. If **you** selected **public patient** optional cover under **your final policy** and those activities were listed on the **policy schedule** of **your final policy** then **we** will cover **you** in respect of **claims** against **you** for **healthcare incidents** in relation to **healthcare** provided to a **public patient**

where **you** have no right to indemnity from a hospital, area health service, or a government scheme for **public patient** care and where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**. **We** do not cover **you** if, at the time, **you** were indemnified or entitled to indemnity other than by this policy for **healthcare** provided to a **public patient**.

### **How much we insure you for under Part A**

10. **Your policy schedule** sets out the maximum amount of **our** indemnity for **claims** under Part A. The maximum amount includes **legal defence costs** specified in **your policy schedule**.
- For the purposes of this clause, a single **claim** means:
- (a) all **claims** by one or more claimants that arise from the same act or omission; and
- (b) all **claims** by one or more claimants that arise from one or more related acts or omissions.
11. **You** may be required to pay a **special deductible** for **claims**. If **you** are required to pay a **special deductible**, the amount will be specified in **your policy schedule**. If so, then in respect of any sum which **you** become legally liable to

pay as compensation, **you** must first pay the amount of any **special deductible** specified in the **policy schedule** for that kind of liability.

#### Exclusions – Part A

12. These exclusions apply to all cover under Part A of this policy.

13. **We** do not cover **you** for any **claims** against **you** or **legal defence costs** incurred or ordered that are first notified outside of the **period of eligibility**.

14. **We** do not cover **you**, unless otherwise specified in **your policy schedule**, for any **claims** against **you** or **legal defence costs** in connection with any **claims** where the **claims** or **legal defence costs** arise out of or in connection with:

- (a) any **healthcare** or **unpaid healthcare** for which **you** were entitled to be indemnified by **your** employer, a hospital, area health service of government scheme or where **you** were entitled to indemnity under another policy of professional indemnity insurance;
- (b) any **healthcare** or **unpaid healthcare** involving **public patients**;

(c) any **healthcare** or **unpaid healthcare** **you** provided which was:

- (i) in breach of terms or conditions on **your** registration as a **healthcare professional**; or
- (ii) in breach of any undertaking or limitation on **your** registration as a **healthcare professional**;

(d) any **legal defence costs** or payments that **you** incur subject to clause 42 and 47;

(e) **healthcare** or **unpaid healthcare** provided outside the **run-off period** specified in **your policy schedule**;

(f) any corporate practice, collective practice including a partnership or association, unless it is a **practice entity**;

(g) sexual harassment, sexual misconduct or any form of discriminatory conduct;

(h) the ownership, use or occupation or state of premises, or the contents of such premises or anything done or omitted to be done in respect of the state of any premises owned, leased or occupied by **you** or the contents of such premises;

(i) any physical loss of, or damage to, property;

(j) personal injury or property damage suffered or allegedly suffered by any of **your** employees in the course of their employment;

(k) any punitive, aggravated or exemplary damages, fines or civil penalties;

(l) any **claim** under a contract other than a contract to provide **healthcare** unless liability would have attached in the absence of such a contract;

(m) any **healthcare** or **unpaid healthcare** provided when **you** were not registered as a **medical practitioner** and **you** were required to be registered;

(n) any **healthcare** or **unpaid healthcare** provided in a state or territory of Australia in which **you** were not registered to practise, or where **you** were not registered to practice under a Commonwealth law; and where **you** were required to be registered as a **medical practitioner**;

(o) any **healthcare** or **unpaid healthcare** where **you** had not completed the recognised training or lacked the qualifications to provide such **healthcare**;

- (p) **healthcare** or **unpaid healthcare** (except for **Good Samaritan acts** and acts in emergency situations) that was not normally associated with **your category of practice**;
- (q) any **healthcare** or **unpaid healthcare** provided by **you** outside Australia, or court or proceedings that are brought or held outside Australia, except as provided by clause 6;
- (r) any **healthcare** or **unpaid healthcare professional**, or any **claims** made against **you** as a result of any association or arrangement **you** had with another **healthcare professional**;
- (s) any **healthcare** or **unpaid healthcare** provided over the internet or online, by video conference, telephone or from the playing of a recording device (such as DVD or CD player) unless it was preceded by a physical medical examination of the patient by **you**, or was in accordance with any relevant Australian Medical Association or medical college guidelines;
- (t) **healthcare** or **unpaid healthcare** that **you** had agreed to provide at an **extreme activities** event unless **you**

- had taken out optional cover under clause 8
- (u) the design, manufacture, distribution or sale of any goods or products;
- (v) any **claim** or circumstances which may give rise to a **claim** which **you** knew about or a reasonable person in **your** position would have thought might result in a **claim** or allegation being made against **you** and **you** failed to tell **us** about prior to the commencement of the **period of eligibility**;
- (w) any circumstances to which Part A would otherwise respond which **you** notified to **us** or to another insurer before the **period of eligibility**;
- (x) the provision of any **healthcare** or **unpaid healthcare** while **you** were under the influence of an intoxicant, narcotic or other drugs affecting or which may affect neuro-cognitive competence;
- (y) the consequences outside of **your** control of a terrorist act or threat of a terrorist act (as defined in section 100(1) of the *Criminal Code 1995* (Cth)) other than a **claim** in respect of **healthcare** or **unpaid healthcare**

- provided by **you** as a result of a terrorist act or threat of a terrorist act;
- (z) the transmission of a contagious disease or virus by **you** if **you** knew or should have reasonably known or suspected that **you** were carrying the disease or virus;
- (aa) any criminal or dishonest act or omission by **you**;
- (bb) a breach of duty by any of **your** employees or **practice staff** except as provided by clause 5;
- (cc) radioactive materials of any type except when used in the ordinary course of radiotherapy, radiology or nuclear medicine;
- (dd) engaging in inappropriate practices within the meaning of the *Health Insurance Act 1973* (Cth);
- (ee) any disciplinary action taken against **you** by **your** employer;
- (ff) **your** current or former employer or any person to whom **you** had applied for employment;
- (gg) any procedure(s) or area(s) of practice specifically excluded in the **policy schedule**;

- (hh) **you** in **your** capacity as a past or current director, secretary, officer, principal, committee member, manager, trustee, auditor, receiver, treasurer, liquidator, or employee of a body corporate or association;
- (ii) asbestos, pollution or the infringement of any type of intellectual property;
- (jj) defamation;
- (kk) **healthcare you** provided within a **clinical trial**, where that trial was not specified on **your policy schedule**, except as provided by clause 7; or
- (ll) a request by a patient to refund a fees they have paid to **you**, or to waive fees due to **you**.

## Part B – Legal Fees and Expenses

15. Part B of **your policy** provides **legal fees and expenses** cover. **You** are automatically covered under Part B for **legal fees and expenses** cover up to the sub-limits specified in **your policy schedule** for the defence of matters set out in Part B when the notification giving rise to the need for **you** to claim the **legal fees and expenses** is received by **you** and **you** tell **us** about it in writing during the **period of eligibility** specified in **your policy schedule** and which relate to **healthcare, unpaid healthcare or your practice** as a **medical practitioner** during the **run-off period** specified on **your policy schedule**. It is not a requirement that the proceedings commence or are completed during the **period of eligibility**.

### How much we insure you for under Part B

16. **Your policy schedule** sets out the maximum aggregated amount of **our** indemnity for **legal fees and expenses** under Part B in the **policy period**.

For the purposes of this clause, a single **complaint**, inquiry or matter means:

- (a) all **complaints**, inquiry or matter by one or more claimants that arise from the same act or omission; and

- (b) all **complaints**, inquiry or matter by one or more claimants that arise from one or more related acts or omissions.

17. Cover under this Part B shall be subject to and in accordance with the amounts, terms, conditions and exclusions set out in **your final policy** and subject to the **relevant legislation**.

*Legal Fees and Expenses cover outside of Australia*

18. **We** cover **legal fees and expenses** that **we** incur for **you** in respect of matters covered by clauses 19, 20(a) or 20(b) that are made or held outside of Australia where:
- (a) the period **you** were outside of Australia, whether or not **you** were practising, was less than, one hundred and twenty (120) days in any prior policy period; or
- (b) **you** were participating as a trainee in a **healthcare training program** that was for a period of less than two (2) years; or
- (c) the act was a **Good Samaritan act**, for which **you** are covered worldwide.

Cover extended under subsections (a) and (b) of this clause excludes matters: that arise as a result of **healthcare or unpaid healthcare** provided by **you or your practice as medical practitioner** in the USA; or involving proceedings brought in a court or tribunal of the USA, or any court or tribunal which is applying the law of the USA.

### Division 1 – Cover for disciplinary, coronial and criminal proceedings and investigations

19. **We** cover **legal fees and expenses** that **we** incur with **the lawyer or other person** in relation to defending a prosecution, responding to a commission, inquiry, inquest, investigation or **complaint** brought by a registration board, tribunal, complaints unit, criminal court or coronial court directly relating to **your** former practice as a **medical practitioner**, or research connected with **your** former practice as a **medical practitioner** and including any legal costs **you** may be ordered to pay by a court or tribunal and which relate to **healthcare or unpaid healthcare** provided by **you** during the **run-off period** specified on **your policy schedule**.

## Division 2 – Cover for other actions, complaints, proceedings and inquiries

20. We cover **legal fees and expenses** that we incur with **the lawyer** or **other person** in relation to any of the following:
- (a) defending a civil or criminal action or responding to an investigation or **complaint** or appearing at an inquiry or interview related to an allegation of inappropriate practices within the meaning of the *Health Insurance Act 1973* (Cth) and brought or made under that Act (which includes a Medicare audit or inquiry);
  - (b) defending a prosecution or responding to an inquiry brought by a health or medical benefit fund; or
  - (c) defending or pursuing an appeal from a judgment in proceedings where cover is provided in Divisions 1 and 2 of Part B where **we** consider that the appeal has merit and reasonable prospect of success.

## Exclusions – Part B

21. We do not cover **you** under Part B of this policy for any of the following:
- (a) any **legal fees and expenses** and related expenses we do not incur on **your** behalf;
  - (b) any **legal fees and expenses** and related expenses of any person or entity not insured under this policy;
  - (c) any personal expenses **you** incur, including travel and out-of-pocket expenses to attend court hearings, meetings and conferences;
  - (d) **legal fees and expenses** that are incurred responding to **claims** covered by Part A of this policy;
  - (e) any action in relation to the recovery of money;
  - (f) any dispute arising in connection with the sale of **your** practice or business;
  - (g) any **complaint**, hearing or matter in relation to a dispute between **you**; and **your** existing or former partners, associates, or **your** fellow shareholders, members or directors;
  - (h) once **you** have been found guilty or admitted guilt to a court in a criminal

prosecution, but this exclusion does not apply to:

- (i) sentencing; or
  - (ii) any other claim under Part B Division 1;
- (i) **legal fees and expenses** incurred in relation to any **complaint**, hearing or matter by or against **you** that is not directly related to the provision of **healthcare** or **your** former practice as a **medical practitioner**;
  - (j) any **complaint**, hearing, matter or court or disciplinary proceedings, inquiry or inquest that is made or held outside of Australia, except as provided by clause 18;
  - (k) any **complaint**, hearing or matter where **you** were:
    - (i) in breach of terms or conditions on **your** registration as a **medical practitioner**; or
    - (ii) in breach of any undertaking or limitation on **your** registration as a **medical practitioner**;
  - (l) any **complaint**, hearing or matter that is first notified to **us** outside of the **period of eligibility**;

- (m) any circumstances which might give rise to a **complaint**, hearing or matter that **you** knew about or a reasonable person in **your** position would have thought might result in a **complaint** or allegation being made against **you** and **you** failed to tell **us** about prior to the commencement of the **period of eligibility**;
- (n) any compensation, damages (including punitive, aggravated or exemplary), fines or civil penalties;
- (o) a **complaint**, hearing or matter that is based on an allegation of any of the following:
  - (i) asbestos;
  - (ii) pollution; or
  - (iii) infringement of any type of intellectual property;
- (p) a **complaint**, hearing or matter that **you** solicit or solicited or that results or resulted from **your** collusion with someone else;
- (q) a **complaint**, hearing or matter relating to **you** in **your** capacity as a past or current director, secretary, officer, principal, committee member, manager, trustee, auditor, receiver,

- treasurer, liquidator, or employee of a body corporate or association;
- (r) **your** liability as a partner, or former partner, of a partnership;
- (s) a **complaint**, hearing or matter in respect of any type of personal injury (including assault, detention, eviction, prosecution and humiliation) or property damage (including any consequential loss of any kind);
- (t) the ownership, use or state of premises or the contents of such premises, or anything done or omitted to be done in respect of the state of any premises or their contents owned, leased or occupied by **you**;
- (u) a **complaint**, hearing or matter between **you** and **your** former, current or proposed employee or contracted staff member or employer;
- (v) a **complaint**, hearing or matter in respect of any **healthcare** or **unpaid healthcare** provided by **you** in a state or territory of Australia in which **you** were not registered to practise and where **you** are required to be registered to provide **healthcare**; or if **you** were not registered to practise under a law of the Commonwealth

- and where **you** were required to be registered to practise under such a law.
- (w) driving offences;
- (x) a breach of Trade Practices or State Fair Trading legislation;
- (y) a **complaint**, hearing or matter between **you** and a hospital relating to a contract for **your** engagement as a visiting **medical practitioner**;
- (z) a **complaint**, hearing or matter in relation to a patient that relates to **your** former practice as a **medical practitioner** and relates to or affects the personal safety of **you** or **your** family;
- (aa) a **complaint**, hearing or matter that arises from **your** involvement in a **healthcare training program**;
- (bb) a **complaint**, hearing or matter in relation to a dispute with a government department, statutory authority or private authority which relates to **your** former practice as a **medical practitioner**; or
- (cc) defamation.

## Section 6

### Conditions

22. These conditions apply to Parts A and B of this policy except where otherwise stated in these conditions.

#### **You must not act recklessly**

23. **You** must not do anything recklessly or wilfully that might give rise to a **claim, complaint** or matter under this policy.

#### **No admission**

24. **You** must not make any admission, offer or compromise in relation to any **claim, complaint** or matter covered by this policy without **our** prior written consent.

#### **Subrogation and other insurance**

25. If **we** make a payment under this policy **we** are subrogated to all **your** rights of contribution, indemnity or recovery without the need for **your** consent. **You** agree not to surrender any right to, or settle any **claim** for, contribution, indemnity or recovery without **our** prior written consent.

26. To the extent allowed by law, **we** will not pay under this policy any part of a liability in relation to which **you** are entitled to be indemnified under another policy of insurance.
27. **You** must tell **us** in writing when making a claim if **you** have any other insurance policies or entitlement to indemnity which may also cover **you** in respect of anything covered by this policy.

#### **Conduct of claims, complaints or matters**

28. **You** agree that **we** have the conduct of a **claim, complaint** or matter against **you** including:
- (a) its investigation, pursuit, defence, avoidance, reduction or settlement; and
  - (b) **we** may do so in **your** name.
29. **We** may defend or settle a **claim, complaint** or matter as **we** think fit.
30. **You** may defend any **claim, complaint** or matter which **we** believe should be settled but **we** will not pay any more in relation to that **claim, complaint** or matter than **we** would have been required to pay if it had been settled or resolved as **we** believed it could or should have been.

#### **Your duty to cooperate**

31. **You** agree at **your** expense to:
- (a) give **us, our** investigators and **the lawyer** all information, documents and assistance **we** reasonably require; and
  - (b) cooperate fully with **us, our** investigators and **the lawyer**.
32. **You** further agree to waive any claim for legal professional privilege or confidentiality to the extent only that the privilege or confidentiality would otherwise prevent **the lawyer** from disclosing information to **us**. **The lawyer** will keep **us** properly informed on all relevant matters.

#### **Loss prevention**

33. **You** must take all reasonable care to avoid or reduce the chance of any **claim, complaint** or matter being made against **you**.
34. **You** must not do, or fail to do anything which **you** know or should reasonably be expected to know will result in any **claim, complaint** or matter being made against **you**.

### **We will appoint the lawyer or other person**

35. **We** will appoint **the lawyer** or **other person** to provide services to **us** for the benefit of **you** and **the lawyer** or **other person** will either be:
- (a) a lawyer from **Avant Law**; or
  - (b) a lawyer from **our** external panel; or
  - (c) an **other person** that **we** have appointed;

in each case as **we** determine, having regard to the nature and circumstances of the **claim, complaint**, matter or prosecution. When **we** appoint **the lawyer** or **other person**, **we** do so in **our** own capacity and not as agent for **you**.

36. **The lawyer** or **other person** appointed by **us** supplies services to **us** and not to **you** for the purposes of the Goods and Services Tax (GST). **We** are entitled to claim a GST input tax credit on services supplied by **the lawyer** or **other person**.

### **You must cooperate with the lawyer**

37. **You** must cooperate with **the lawyer** in resolving the matter in a satisfactory, timely and cost-effective way. In particular, **you** must:
- (a) give **the lawyer** a full and truthful account of the relevant facts;

- (b) give **the lawyer** any relevant information or documents in **your** possession that he or she asks for;
- (c) obtain any other relevant information or documents that **you** can;
- (d) execute any documents **the lawyer** reasonably asks **you** to; and
- (e) attend any meetings **the lawyer** reasonably asks **you** to.

### **The lawyer's or other persons account**

38. **The lawyer** or **other person** will provide **us** with an account for fees, charges, expenses and disbursements reasonably incurred. **We** will pay the account subject to the limit of **our** liability set out in the **policy schedule** and subject to payment by **you** of any **special deductible** imposed by special condition.

### **We are not liable if you do not cooperate with us and the lawyer**

39. **We** will not be liable for **legal fees and expenses** if:
- (a) **you** do not give **us** or **the lawyer** adequate instructions; or
  - (b) **you** do not follow the advice of **the lawyer**; or

- (c) **you** cause a delay which, in **our** or **the lawyer's** reasonable opinion, prejudices the outcome of the case.

### **We do not accept responsibility for the lawyer or other person**

40. Except where a lawyer from **Avant Law** is appointed, **we** do not accept any responsibility for anything done or not done by **the lawyer** or **other person**. He or she is not **our** agent or employee. **We** make no representation of any kind about **the lawyer's** or **other person's** ability.

### **You must be reasonable in relation to settlement**

41. **You** must not act unreasonably in rejecting a settlement or an offer of settlement, which **we** or **the lawyer** recommend to **you**.

### **We may decide not to continue**

42. **We** may decide not to incur any further **legal fees and expenses** for defending or responding to a **complaint**, matter or prosecution under Part B if **we** believe that there are no reasonable grounds for defending or responding to a **complaint**, matter or prosecution. **We** will take account of **the lawyer's** advice in making that decision. If **we** do that, **we** will tell **you** in writing. **We** will pay the **legal fees**

**and expenses** incurred prior to the date on which **we** write to **you** telling **you** of **our** decision. **You** may continue defending or responding to the **claim, complaint**, matter or prosecution. If **we** subsequently decide to assist **you** **we** will appoint **the lawyer** to act on **our** behalf. After **we** cease paying the **legal fees and expenses**, **we** will only pay **you** thereafter for **legal fees and expenses** (not including the GST component if **you** are registered for GST) that **you** have incurred if **you** are successful defending or responding to a **claim, complaint**, matter or prosecution.

### Appeals

43. If **you** are dissatisfied with any decision made in a **claim, complaint** or matter against **you** by a court or other decision making body and wish to appeal against that decision, **you** must seek **our** consent to the appeal within seven (7) business days after the date of the decision, or such shorter period as may be reasonable having regard to the time limit for an appeal.

44. The application must be in writing and must fully set out the reasons for bringing an appeal. **We** will inform **you** in writing if **we** consent to the appeal.
45. If **we** wish to appeal against any decision made in a **claim, complaint** or matter against **you** by a court or other decision making body, **you** must reasonably cooperate with **us** in the bringing of such an appeal.
46. If **we** do not consent to the bringing of an appeal, **you** may conduct the appeal at **your** own expense.
47. If **you** appeal from a decision in a **claim, complaint** or matter against **you** without **our** consent:
  - (a) after **we** cease paying the **legal fees and expenses**, **we** will only pay **you** thereafter for **legal fees and expenses** (not including the GST component if **you** are registered for GST) that **you** have incurred if **you** are successful in the appeal; and
  - (b) if the appeal is successful and **you** are entitled to a refund of any money that **we** paid to the claimant, then **we** are entitled to recover that amount after the deduction of the costs **you** have incurred.

### Our right to recover payment from you

48. If **we** have made any payment under this policy and the **claim, complaint** or matter is later found to involve a fraudulent, criminal or dishonest act or omission by **you**, **we** are entitled to recover this payment from **you**.

### Fraud

49. **We** may reject **your** fraudulent request for indemnity or any part of **your** request for indemnity that is fraudulent or is supported by fraudulent or exaggerated evidence.

### Disputes

50. Any dispute which arises under this policy may be addressed, at **your** request, by reference to **our** internal dispute resolution procedure and failing resolution by that means, by reference to an approved external dispute resolution scheme.

### Payment of Deductible

51. When **your policy schedule** states that a **special deductible** is payable the following conditions apply to that deductible:
  - (a) indemnity under this policy will not apply until the **special deductible** is paid in full to **us**. For clarification **we** will not cover **you** for any **claim, legal defence costs** or **legal fees and**

- expenses** under the policy until **you** have paid the **special deductible** to **us**;
- (b) the monies received by **us** from **you** for the deductible shall be applied to discharge the **claim, legal defence costs** or **legal fees and expenses** before any sum will be paid by **us**;
  - (c) if the sum paid by **you** to **us** in respect of the deductible is not exhausted by the **claim, legal defence costs** or **legal fees and expenses** incurred in connection with the matter, then **we** will return the unexpended balance of the deductible monies to **you** within fourteen days of the **claim** or matter being (in **our** opinion) concluded; and
  - (d) interest will not be payable by **us** to **you** (or another person) on the **special deductible** monies held by **us**.

### Clinical records

52. **You** must maintain clinical records for **healthcare** provided to **your** patients that:
- (a) are of a standard expected of a competent **medical practitioner**;
  - (b) are prepared and updated on or reasonably proximate to each occasion of the provision of **healthcare**; and

- (c) if computerised, the integrity of the records can be verified by reference to the security features of the software.

## Section 7

### Claims, notifications and termination

#### You must notify us of a claim or incident

53. **You** must notify **us** in writing as soon as practicable of any **healthcare incident** or **claim** made against **you** and in any case during the **period of eligibility**.
54. If **you** do not notify **us** of a **healthcare incident** or **claim** as soon as practicable, **you** may not be covered under this policy and **your** right to indemnity may be significantly reduced by **us**.
55. To report a **healthcare incident** or **claim** **you** must notify **us** in writing to:  
Avant Insurance Limited  
PO Box 746  
Queen Victoria Building NSW 1230.
56. **Your** notification must include **your** details, the details of the **healthcare incident** or **claim** including the date of the **healthcare incident**, the patient's name and the details of any **claim**.

#### Other things of which you must notify us

57. **You** must notify **us** in writing as soon as practicable of any civil or criminal action, prosecution, inquiry, inquest, investigation or **complaint**, judgment, or appeal brought or made by a registration board, tribunal, complaints unit, criminal court, civil court, coronial court or Medicare Australia directly relating to **your** practice as a **medical practitioner**.
58. If **you** do not notify **us** of the matters set out in clause 57 above as soon as practicable, **you** may not be covered under the policy and **your** right to indemnity may be significantly reduced by **us**.

#### Claims acceptance

59. The acceptance of a **claim** or indemnity by **us** under Part A or B of this policy can be subsequently withdrawn if facts come to **our** attention that trigger or satisfy a policy exclusion, or the policy does not cover the **claim**, or there is no policy in force

#### Termination

60. This policy will terminate and cease to provide cover to **you** after any termination date for the **run-off cover scheme** set by the Commonwealth by a regulation made under s34ZB *Medical Indemnity Act 2002* (Cth).



