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**2004B00183**

# Medical Indemnity (Prudential Supervision and Product Standards) Amendment Regulations 2004 (No. 4)<sup>1</sup>

Statutory Rules 2004 No. 4<sup>2</sup>

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*.

Dated      24 JUN 2004      2004

PM Jeffery  
Governor-General

By His Excellency's Command

HELEN COONAN  
Minister for Revenue and Assistant Treasurer

**1 Name of Regulations**

These Regulations are the *Medical Indemnity (Prudential Supervision and Product Standards) Amendment Regulations 2004 (No. 4)*.

**2 Commencement**

These Regulations commence on the date of their notification in the *Gazette*.

**3 Amendment of *Medical Indemnity (Prudential Supervision and Product Standards) Regulations 2003***

Schedule 1 amends the *Medical Indemnity (Prudential Supervision and Product Standards) Regulations 2003*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Regulation 3, heading**

*substitute*

**3 Definitions**

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2 *Medical Indemnity (Prudential Supervision and Product Standards) Amendment Regulations 2004 (No. 4)*

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**[2] Paragraph 4 (1) (c)***substitute*

- (c) an arrangement under which:
- (i) medical indemnity cover is provided, by a training institution that provides training in subjects relevant to the provision of health care, to a person who:
    - (A) provides the training on behalf of the training institution in any capacity (including as an employee, a contractor to the training institution or a volunteer); or
    - (B) assists in the provision of the training on behalf of the training institution; or
    - (C) is receiving that training;to the extent only that the arrangement provides medical indemnity cover in relation to incidents that occur in the course of the training; or
  - (ii) a person mentioned in subparagraph (i) is indemnified indirectly, through the training institution as an entity interposed between the provider of the medical indemnity cover and the person, in relation to claims that may be made against the person in relation to health care incidents, to the extent only that the arrangement provides medical indemnity cover in relation to incidents that occur in the course of the training;
- (d) an arrangement under which:
- (i) medical indemnity cover is provided, by a training institution that provides training in subjects relevant to the provision of health care, to a person who:
    - (A) is a member of the staff of the training institution in any capacity (including as an employee, a contractor to the training institution or a volunteer); and

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- (B) provides health care to the public as a member of the staff of the training institution;
- to the extent only that the arrangement provides medical indemnity cover in relation to incidents that occur in the course of the provision of the health care; or
- (ii) a person mentioned in subparagraph (i) is indemnified indirectly, through the training institution as an entity interposed between the provider of the medical indemnity cover and the person, in relation to claims that may be made against the person in relation to health care incidents, to the extent only that the arrangement provides medical indemnity cover in relation to incidents that occur in the course of the provision of the health care;
- (e) an arrangement under which a person provides medical indemnity cover to a health care professional, if:
- (i) the health care professional provides a particular kind of health care; and
- (ii) health care professionals providing that kind of health care are not required to be licensed or registered, in relation to the provision of the health care, by or under any law of any State or Territory;
- (f) an arrangement under which a health care professional is indemnified indirectly, through:
- (i) the Commonwealth; or
- (ii) a public authority of the Commonwealth; or
- (iii) an instrumentality or agency of the Crown in right of the Commonwealth; or
- (iv) a State; or
- (v) a public authority of a State; or
- (vi) an instrumentality or agency of the Crown in right of a State; or
- (vii) a Territory; or
- (viii) a public authority of a Territory; or

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- (ix) an instrumentality or agency of the Crown in right of a Territory;  
as an entity interposed between the provider of the medical indemnity cover and the health care professional, in relation to claims that may be made against the health care professional in relation to health care incidents;
- (g) an arrangement under which a person provides medical indemnity cover to:
- (i) a voluntary organisation; or
  - (ii) a health care professional;
- to the extent only that the arrangement provides medical indemnity cover to the health care professional in relation to incidents that occur in the course of the provision of gratuitous health care by the health care professional for the voluntary organisation on a voluntary basis;
- (h) an arrangement:
- (i) made as the result of an agreement or understanding between:
    - (A) a health care professional; and
    - (B) the health care professional's employer; and
  - (ii) in accordance with which:
    - (A) either or both of the health care professional and the employer become the beneficiaries of an indemnity in relation to claims that may be made in relation to health care incidents; and
    - (B) the indemnity is provided by a general insurer or a Lloyd's underwriter (within the meaning of the *Insurance Act 1973*);
- (i) an arrangement:
- (i) made as the result of an agreement or understanding between:
    - (A) a health care professional; and
    - (B) an entity that is both the health care professional's employer and a wholly-owned subsidiary of another entity; and

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- (ii) in accordance with which:
    - (A) 1 or more of the health care professional, the employer and the owning entity become the beneficiaries of an indemnity in relation to claims that may be made in relation to health care incidents; and
    - (B) the indemnity is provided by a general insurer or a Lloyd's underwriter (within the meaning of the *Insurance Act 1973*);
  - (j) an arrangement under which:
    - (i) a health care professional who performs services as a contractor to:
      - (A) the MIA Group Limited; or
      - (B) a wholly-owned subsidiary of the MIA Group Limited; or
      - (C) if the MIA Group Limited merges with the DCA Group Limited — the merged entity;
 is indemnified in relation to claims that may be made against the health care professional in relation to health care incidents; and
    - (ii) the indemnity is insured with a general insurer or a Lloyd's underwriter (within the meaning of the *Insurance Act 1973*).

*Example of a training institution for paragraphs (c) and (d)*

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## Notes

1. These Regulations amend Statutory Rules 2003 No. 109, as amended by 2003 No. 129; 2004 Nos. 81~~and 87~~ *and 150*
2. Notified in the *Commonwealth of Australia Gazette* on *6* 2004. *25 June*