



NEW SOUTH WALES NURSES AND MIDWIVES' ASSOCIATION
AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NEW SOUTH WALES BRANCH



GUIDELINES ON PROFESSIONAL INDEMNITY INSURANCE

Re-Endorsed by Annual Conference 2022

NSW Nurses and Midwives' Association
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Guidelines on Professional Indemnity Insurance

Nurses and midwives practising in Australia must only practice when covered by an appropriate Professional Indemnity Insurance (PII) policy in accordance with the Nursing and Midwifery Board of Australia (NMBA) Registration Standard: Professional Indemnity Insurance arrangements¹.

NURSES AND MIDWIVES WORKING IN NSW COVERED BY PII OF THEIR EMPLOYER

In NSW the majority of nurses and midwives are covered through the PII policy held by their employer.

This is due to nurses and midwives, who are employees, being covered by the Employees Liability Act 1991² which provides that an employer is liable to indemnify an employee in respect of liability incurred by the employee in the course of their employment, with the exception of serious and wilful misconduct.

Nurses and midwives should seek confirmation of their PII cover from their employer.

NSW NURSES AND MIDWIVES' ASSOCIATION PROVIDES PII TO MEMBERS

The Association provides PII to nurses and midwives as part of their membership with the Association³. Members must be financial at the time of the incident.

This PII includes cover for civil liability as well as covering costs for Coronial Inquiries and matters before the NSW Civil and Administrative tribunal.

It does not cover homebirth activities whether as an employee or as a private practitioner, or nurses or midwives whose main income is derived from independent or private nursing and/or midwifery work. In these circumstances the individual practitioner should seek their own insurance cover.

Where a civil claim arises, the employer is liable and their insurance will apply.

Financial members undertaking supervised practice will be covered under this policy.

Members should ensure they are familiar with the details of this PII cover and how it applies to their particular circumstances.



This is a summary only and all claims will be subject to the issued PII insurance policy terms and conditions.

NURSES AND MIDWIVES WORKING IN NSW WHO MAY REQUIRE THEIR OWN PII COVER

Nurses and midwives who are self-employed or privately practising must ensure they meet PII requirements, and may need to purchase their own PII policy.

Nurses and midwives in different types of practice will require different levels of PII cover. Privately practising nurses and midwives should ensure they obtain PII cover that is appropriate to their area of practice and provides the necessary level of cover.

Privately practising or self-employed midwives may have access to specific insurance products. However, as there are no PII products available to cover intra-partum care during homebirth, a temporary exemption has been put in place⁴. In order for midwives to be eligible for the exemption, they must comply with the NMBA's 'Safety and Quality Guidelines for Privately Practising Midwives'⁵. The requirements for PII in relation to this exemption are explained in detail in the NMBA document.

NURSES AND MIDWIVES WORKING OUTSIDE OF NSW

Nurses and midwives practising in NSW and intending to commence work in other states must ensure they meet PII arrangements in that state prior to starting work.

The NSWNMA PII cover will provide cover for members working on short term contracts interstate. Members should take steps to confirm this prior to commencing the work.

Members intending to work long-term or permanently in another state should transfer their membership to the relevant state branch of the ANMF and prior to commencing work, check with that ANMF branch regarding PII requirements and ensure the PII cover is in place.

Members who intend to work across more than one state simultaneously must be aware that membership to the NSWNMA does not ensure professional and industrial coverage when working in another state. Members must contact the NSWNMA and the other state's branch to discuss options to maintain cross-border membership, as well as to ensure the appropriate PII cover is in place.

Members who are unsure of their PII cover should contact the NSWNMA to discuss further.

REFERENCES

1. Registration standard: Professional indemnity insurance arrangements, Nursing and Midwifery Board of Australia, 1 June 2016 <https://www.nursingmidwiferyboard.gov.au/registration-standards.aspx>.



2. Employees Liability Act 1991 (NSW) <https://www.legislation.nsw.gov.au/#/view/act/1991/4/whole>.
3. Professional Indemnity Insurance for Members, <http://www.nswnma.asn.au/professional-indemnity-insurance/>.
4. Health Practitioner Regulation National Law Amendment (Professional Indemnity Insurance) Regulations (VIC) 2021; Health Practitioner Regulation National Law Regulation (VIC) 2018 - s40, adopted in NSW by the *Health Practitioner Regulation (Adoption of National Law) Act (NSW) 2009* - s4 and Health Practitioner Regulation National Law (NSW) 2009 - s245.
5. Safety and Quality Guidelines for Privately Practising Midwives, Nursing and Midwifery Board of Australia, 1 January 2017.