

Pilates

Version 1 – 29th July 2012



Professional Indemnity Insurance - Potential 'Gotchas'!

Scope

This document explains my understanding of 'Retro-active Dates' and 'Run Off Cover' as relating to Professional Indemnity Insurance cover.

It also refers to a situations where cover may not apply – with the implicit warning that you check your actual policy wording!

Let's just say I was 'GOB-SMACKED' when I discovered how these contracts are written.....

For instance:

- Are you sure you are covered for incidents that occurred in the past that you have yet to be notified of?
- Are you sure you are covered after you have ceased the professional activity and not renewed your policy?

Policy Cover – First NOTIFIED Basis

- When you effect a new Professional Indemnity (“P.I.”) policy, you will be asked if you have been notified of any claims against you.
- Not an unreasonable question but I always believed that a PI policies responded to incidents that occurred during the term of the current policy.
- This is not the case – my research indicates that such policies respond to claims when they are FIRST NOTIFIED TO YOU.
- To put it another way, it is NOT WHEN the incident giving rise to a potential claim occurred that is important here but the date when you first become aware of it.
- This subtle distinction can have some profound consequences, best illustrated by a couple of examples.
- See green highlight in Appendix.

Scenario 1 – Retro-Active Cover

- You were teaching Pilates before (either uninsured or insured with another insurer)
- You effect a new ** PI policy on 1st Jan with a new insurer and, at the time of the proposal, you are not aware of any actions that have been made against you.
- Several months later, you receive notification that you action is being taken against you and this relates to an incident that happened several years ago – ie BEFORE your current policy was effected.
- If a previous policy had been in force at the time this incident occurred , it would not provide cover – this is because PI contracts respond to claims when they are first notified to you
- Hence, your next question would be “does my CURRENT POLICY provide cover?”
- Well, that depends upon the RETROACTIVE date shown in the policy.
- If this date is unlimited – ie goes back indefinitely – no problem.
- However, what if it doesn’t?....
- Ouch – gotcha 😊
- Time to go and read YOUR policy again?....

** nb – the situation is unaltered in this scenario if you are renewing an existing policy. Typically, each renewal counts as a separate/new policy.

Scenario 2 – Run Off Cover

- You have been teaching for some years and decide this will be your last year teaching.
- Your insurance policy lapses and, two months later, you are notified of a claim being lodged against you.
- You think “well that’s pretty rude – if these contracts only respond when I am first notified of a claim, what happens now? My previous policy has lapsed and I have buckleys of being able to effect a new one – now what?...”
- This is where the concept of ‘Run Off Cover’ applies
- You need to check to ensure if your current policy has such cover, for how long it continues and if there are any special conditions to be met in order for it to apply.
- In the case of my insurer, there are two conditions for run off cover to apply:
 - a) You need to cease to practise during the policy period and
 - b) You need to advise the insurer of this during the current policy term**
- It is good to know I have run off cover but I have to say, I’m glad I found out about condition b) above – that’s one that isn’t immediately obvious!
- See yellow highlight in Appendix

Appendix – Renewal eMail

- Refer yellow and green highlights

Dear Simon,

IMPORTANT INSURANCE EXPIRY NOTICE

Your Health Professional insurance policy is due to expire at 4.00pm on 19 August 2012. To apply for a new policy please continue to the following link: <https://onlineuc.ihgroup.com.au/direct/uonlinelogin.aspx?company=1&product=50&obtainquote=1>.

Renewal instructions:

- Select the start date which matches with your current expiry date.
- You will need to re-enter all your details as the system will not pre-populate your information.
- Please note we are unable to renew your insurance over the phone.
- If you are aware of any new or old claim, potential claim or complaint against you please contact our office immediately as you will be unable to proceed online.
- Your policy must be renewed prior to the expiry date above.
- Please ensure your e-mail address is correct so that you receive your policy confirmation correctly.
- If you are ceasing practice for any reason please contact our office to obtain information about Run off Cover

Once you have completed your renewal you will receive your confirmation within minutes via e-mail. As professional indemnity insurance is placed on a claims made basis you will only be covered if you have a current policy in place at the time you first become aware of a claim or circumstance and the matter is reported under the current policy.

Should you have any queries please contact us at anytime on 1300 659 626.

Regards