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INDEMNITY DURING THE COVID-19 PANDEMIC: Professional indemnity arrangements for returnees and volunteers

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This article considers the indemnity arrangements for those health care practitioners returning to practice, students who are working in full time clinical practice, and those volunteering to work in the National Health Service; all in response to the COVID-19 pandemic.

Keywords: professional indemnity; COV-19, volunteers, returning to practice

Introduction

The COVID-19 pandemic has resulted in many changes to health care practice in order to meet the increased demand upon the National Health Service. Some of these changes have included health care practitioners who had retired or otherwise left clinical practice being temporarily reregistered with the relevant health care regulators, and student health care practitioners in the final phase of their training leaving their studies and being temporarily admitted to the health care regulator registers so that they can work full-time in clinical environments. There has also been a call for volunteers to work within the National Health Service, not necessarily in clinical areas but to take over some non-clinical duties to free up staff for clinical work.

As it is a requirement that all those registered with the health care regulators have an indemnity arrangement in place, the Government included a provision for this within the Coronavirus Act 2020. Sections 11 – 13 of the Act outlined the provisions for the four countries of the United Kingdom.

Anecdotally it can be said that there was a degree of confusion in some quarters as to whether the provisions in the Coronavirus Act 2020 were in addition to or were superseding indemnity provision already in place for existing National Health Service staff. Several articles (such as Cornock 2020) attempted to cut through the confusion and explain the need for the additional arrangements made by the Coronavirus Act 2020.

On 3rd April 2020 NHS Resolution, clarified the position regarding the indemnity arrangements provided for in the Coronavirus Act 2020, which was to provide an indemnity arrangement for anyone who did not receive indemnity cover either through their employment or via their

own indemnity insurance for their practice. NHS resolution also provided further guidance in relation to indemnity and medico-legal advice during the COVID-19 pandemic (NHS Resolution 2020).

As part of its further guidance NHS Resolution has stated that volunteers who volunteer to assist the National Health Service during the coronavirus pandemic through an agreement with either the NHS Trust or a volunteer organisation, will be covered by the NHS indemnity scheme for clinical negligence. This is similar to the indemnity being provided for retired health care practitioners and final year nursing students who are joining the emergency register and undertaking paid National Health Service work during the COVID-19 pandemic.

In essence, the provisions in the Coronavirus Act 2020 mean that anyone who:

- either already works for the national health Service via a contract of employment;
- is joining the emergency register;
- is leaving their studies to undertake full-time clinical practice; or,
- is volunteering to assist in the National Health Service during the period of the pandemic

will receive indemnity cover for the work they undertake in the National Health Service., either as a result of the provisions in the Coronavirus Act 2020 or because they already existed under a contract of employment.

NHS Resolution has also confirmed that whilst its scheme operates in England, similar arrangements have been put in place by the devolved administrations in Northern Ireland, Scotland and Wales so that all four nations of the United Kingdom have comparable cover.

Those retired health care practitioners who are returning to work in the National Health Service, or those making a premature transition from student to registrant, may have questions about the role that they will be taking on and how they address any concerns they have about their role and their competence to undertake that role. NHS Resolution has stated that the Government did not want this to be a barrier to emergency registration and has confirmed that following discussions the medical defence organisations, such as the Medical Protection Society, and professional organisations such as the Royal College of Nurses and the Royal College of Midwives have agreed that they will provide medico-legal support and advice to retired members at no additional cost to the individual.

This means that membership benefits including advice on medico-legal matters and representation for regulatory, negligence or employment issues during their time on the emergency register will be available to those on the emergency registers for the duration of their time on the emergency register.

It would be advisable for the emergency registrant to inform their previous (if they were retired) or current (if they are a student moving to the emergency register) medical defence or professional organisation of the change in their registration status, so that there is no misunderstanding as to their role within the National Health Service during the COVID-19 pandemic.

Conclusion

Of the many provisions in the Coronavirus Act 2020, those regarding indemnity arrangements were put in place as a precaution to ensure that there was no obstacle to individuals coming forward, either as volunteers or returnees or students, to work in the National Health Service during an unprecedented period of crisis.

It is not expected that the indemnity arrangement provisions in the Coronavirus Act 2020 will be needed. Instead they are there to reassure both those who assist the National Health Service during the COVID-19 pandemic and those who may need its services that the indemnity cover provided to permanent National Health Service employees is extended to those who join the National Health Service on a temporary basis, whether paid or not. This is something that is to be welcomed and applauded.

References

Cornock M (2020) COVID-19: the importance of professional indemnity *Nursing Standard (online)* 26th March 2020 available at: <https://rcni.com/nursing-standard/opinion/expert-advice/covid-19-importance-of-professional-indemnity-159141>

Coronavirus Act 2020

NHS Resolution (2020) Coronavirus outbreak indemnity FAQs