

FAQ FOR HEALTHCARE PROFESSIONALS

RE: THEIR OBLIGATIONS TO HOLD PROFESSIONAL LIABILITY INSURANCE WHEN PROVIDING TREATMENT UNDER THE CROSS BORDER DIRECTIVE

BACKGROUND INFORMATION

Europe

Directive 2011/24/EU on the Application of Patients' Rights in Cross-Border Healthcare was signed into European law on 9th March 2011. The Cross-Border Directive allows for patients who ordinarily reside in other EU/EEA jurisdictions, and who require and are entitled to public healthcare services, to be referred to another EU/EEA Member State for that care and to be reimbursed in accordance with the legislation by their home Member State. All Member States are required to transpose Directive 2011/24/EU into domestic law.

Ireland

The European Union (Application of Patients' Rights in Cross-border Healthcare) Regulation 2014 (**S.I. No. 203 of 2014**) was signed by the Minister for Health on 14th May, 2014, and came into operation on 1st June 2014. This Statutory Instrument implements key provisions of the Directive, namely; providing for reimbursement by the HSE of qualifying cross-border healthcare, a system of prior authorisation, and the placing of the National Contact Point (NCP) on a Statutory basis.

The European Union (Application of Patients' Rights in Cross-Border Healthcare) (Amendment) Regulations 2015 (**S.I. No. 65 of 2015**) was signed into law on 23rd February 2015. This Statutory Instrument provides for a number of amendments/additions to S.I. 203 of 2014 and incorporates a provision that **all healthcare professionals who provide cross-border healthcare under the Cross-Border Directive in the State are legally obliged to have professional liability insurance**. While S.I. 65 became effective on 23rd February 2015, the professional liability insurance provision will only come into operation on **31st March 2015**.

FAQS FOR HEALTHCARE PROFESSIONALS

1) **What does the Cross-Border Directive mean for Ireland?**

Under the Cross-Border Directive, eligible persons resident in other EU Members States, EEA States are entitled to access Irish medical services (public or private), and be reimbursed for this treatment by their home Member State.

2) **Who are healthcare professionals under the Directive?**

A healthcare professional is a doctor of medicine, a nurse responsible for general care, a dental practitioner, a midwife or a pharmacist within the meaning of the Professional Qualifications Directive (PQD), or another professional exercising activities in the healthcare sector which are restricted to a regulated profession (as defined in Article 3(1)(a) of the PQD), or a person considered to be a healthcare professional according to the legislation of the Member State of Treatment.

3) Who/what is a healthcare provider under the Directive?

A healthcare provider is any natural or legal person or any other entity legally providing healthcare in a Member State.

4) What is the Member State of Treatment?

The Member State of Treatment is the State in which treatment is provided under the Cross-Border Directive to persons who don't ordinarily reside in that State, but who do ordinarily reside in other EU/EEA jurisdictions.

5) I am a healthcare professional in Ireland. Am I required to have professional liability insurance?

You only need professional liability insurance if providing treatment to someone under the Cross-Border Directive. **S.I. 65 of 2015 obliges all healthcare professionals who are providing cross-border healthcare (under this Directive) in the State to have professional liability insurance** and to provide evidence of this if requested by an Authorised Officer. Note: Treatment provided under the European Health Insurance Card is not treatment under the Cross-Border Healthcare Directive (see Q. 8).

6) What happens if I treat someone under the Cross-Border Directive without having professional indemnity insurance?

It is an offence to provide treatment under the Cross-Border Directive without holding appropriate professional indemnity insurance. Those found guilty of an offence are liable for a fine or imprisonment or both.

7) Am I obliged to treat a patient under the Cross-Border Directive?

The Directive does not place any obligation on healthcare professionals to provide cross-border treatment under the Cross-Border Directive.

8) What's the difference between treatment under the Cross-Border Directive and Treatment under the European Health Insurance Card (EHIC)?

The European Health Insurance Card and the services provided under the Cross-Border Healthcare Directive are separate and distinct entitlements to health services. Treatment provided under EHIC is not treatment under the Cross-Border Directive.

The European Health Insurance Card allows citizens from EU/EEA jurisdictions to access health and medical care services during temporary visits abroad. The EHIC cannot be used when the purpose of the temporary visit is to obtain medical treatment. The Cross-Border Healthcare Directive allows these same citizens to avail of planned treatment in another EU/EEA jurisdiction.

9) I am treating someone under the European Health Insurance Card. Do I need insurance?

No. If providing treatment under EHIC, a healthcare professional is not legally obliged to have professional liability insurance.

10) What is a National Contact Point?

Each country is required to establish a National Contact Point which can be contacted to provide information on services in that country. In Ireland, the HSE is the National Contact Point.

11) Who are Authorised Officers?

Authorised Officers are persons who are appointed by the HSE to be Authorised Officers.

12) What can an Authorised Officer request?

An Authorised Officer may request you to provide evidence that you have liability insurance if you are treating people under the Cross-Border Healthcare Directive. You must provide this evidence to the Authorised Officer within 15 working days. It is an offence not to show evidence of liability insurance if requested by an Authorised Officer.