



Medical Treatment Liability Reporting Procedure

Effective: 16 January 2018

1. Guiding Principles

Medical Treatment Liability are claims for compensation made against public health authorities arising from the rendering or failure to render medical or health care services provided in the conduct of the relevant public authority's activities which result in bodily injury, mental injury or death of a patient/consumer.

The RiskCover Fund Guidelines require all Hospitals/Health Services to notify RiskCover of all clinical incidents that are, or have the potential to become, actual legal claims against a Hospital/Health Service and/or Health Practitioner.

2. Procedure

Incidents in which there is potential for compensation or medico-legal proceedings are to be referred to WACHS Kimberley Executive Services to ensure the process of advising Legal and Legislative Services (LLS) is enacted.

A clinical incident may be identified by patient/consumer, visitor or any WA health system staff member. It is important for all staff to recognise when a clinical incident has occurred.

When to contact Executive Services

- a. A clinical incident resulting from health care which did lead to unintended and/or unnecessary harm to a patient/consumer through bodily injury, mental injury or death.
- b. If a Freedom of Information (FOI) letter is received from patient/consumer, patient's/consumer's family or lawyers representing patient/consumer.
- c. If a complaint is received by the health service from patient/consumer or lawyers representing patient/consumer or patient's / consumer's family which refers to a clinical incident.
- d. If a letter is received from lawyer's representing patient/consumer or patient's/consumer's family requesting information relating to admission/treatment at the health service.

Executive Services will seek advice from LLS as to whether the request / incident is to be treated as a 'potential or actual' Medical Treatment Liability Claim.

If determined that the incident is a potential/actual Medical Treatment Liability (MTL) Claim

- **Clinical Incident Notification Form** (CINF [Appendix A](#)) to be completed by the Senior Medical Officer (SMO) or equivalent.

A Clinical Incident Notification Form (“CINF”) is a RiskCover Form used for the notification of clinical incidents to LLS and Department of Health.

When completing a CINF, please ensure the incident is/ has been notified via the Clinical Incident Management System (CIMS) and or advise the CIMS when lodging the CINF and necessary paperwork to the ESC

- **Brief Report on the Incident** ([Appendix B](#)), preferably completed by the treating doctor, or alternatively the SMO, ensuring the report is headed ‘Strictly Confidential – provided for the purposes of obtaining legal advice’.

The report is to include the following:

- Date patient/consumer presented to hospital.
- Why.
- What was the diagnosis.
- What treatment was followed.
- What was the outcome.
- When was the patient / consumer discharged (and where e.g. sent home or transferred to another health service, died).
- Has the health service received any complaints from patient / consumer / patient’s / consumer’s family or had any correspondence from lawyers representing them?

- **NSMP MTL Notification Form Completed** ([Appendix C](#)) (if applicable)
All Non-Salaried Medical Practitioners (NSMP) involved in the care/treatment of the patient/consumer around the time of the clinical incident are required to complete this form.
- **Staff List Completed** ([Appendix D](#))
Staff list to record all clinicians/staff involved in the care/ treatment of the patient at the time of the reported incident, including their employment status (i.e. salaried employee or non-salaried).

Note: ‘locum’ does not identify employment status as some locums are salaried and others are on independent contracts.

3. Definitions

CINF	Clinical Incident Notification Form
FOI	Freedom of Information
LLS	Legal and Legislative Services
MTL	Medical Treatment Liability
NSMP	Non-Salaried Medical Practitioner
SMO	Senior Medical Officer

4. Roles And Responsibilities

WACHS Managers to ensure the Medical Treatment Liability Report Procedure is included in orientation and that staff are aware of their obligations under this procedure.

All WACHS – Kimberley staff are responsible for identifying a clinical incident which may result in a Medical Treatment Liability claim and refer it to the Executive Services.

Senior Medical Officer or equivalent is required to complete a Clinical Incident Notification Form and provide CINF and brief report of the incident to Executive Services.

Executive Services are responsible for liaising with Legal & Legislative Services and relevant Health Service regarding the potential Medical Treatment Liability Claim.

5. Compliance

Failure to comply with this procedure may constitute a breach of the WA Health Code of Conduct (Code). The Code is part of the [Employment Policy Framework](#) issued pursuant to section 26 of the [Health Services Act 2016](#) (HSA) and is binding on all WACHS staff which for this purpose includes trainees, students, volunteers, researchers, contractors for service (including all visiting health professionals and agency staff) and persons delivering training or education within WACHS.

WACHS staff are reminded that compliance with all policies is mandatory.

6. Evaluation

Monitoring of compliance with this document is to be carried out by Executive Services Coordinator every five (5) years using the following means/tools:

- feedback supplied by Legal and Legislative Services
- clinical incident reporting
- Safety and Quality Committee concerns.

7. Standards

[National Safety and Quality Healthcare Standards](#) (First edition 2012):

1. Governance for Safety & Quality in Health Service Organisations

[National Safety and Quality Healthcare Standards](#) (Second edition 2017):

1. Clinical Governance

8. References

[Legal and Legislative Services](#)

[Clinical Incident Management System](#)

[Clinical Incident Management System Toolkit 2016](#)

9. Related WA Health System Policies

[OD 0611/15 Clinical Incident Management \(CIM\) Policy 2015](#)

10. Policy Framework

[Clinical Governance, Safety and Quality Policy Framework](#)

**This document can be made available in alternative formats
on request for a person with a disability**

Contact:	Executive Services Coordinator - Kimberley (K. Mackenzie)		
Directorate:	Operations	TRIM Record #	ED-CO-13-12655
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Appendix A



Department of Health
Government of Western Australia



CLINICAL INCIDENT NOTIFICATION FORM
(To be completed by the Hospital / Health Service)

Department of Health
Legal and Legislative Services
189 Royal Street
East Perth WA 6004
Telephone: (08) 9222 4038

REPORT ONLY/POTENTIAL CLAIM
CLAIM

RiskCover
Forrest Centre
221 St George's Terrace
Perth WA 6000
Telephone: (08) 9264 3333

**** Non-teaching hospitals: this form should be attached to a report from the health service outlining details of the clinical incident & forwarded to Legal & Legislative Services**

Hospital / health service			
Health Service Reference:		Staff Contact Name	
Signature of staff contact		Phone No	
Does the incident involve a Non Salaried Medical Practitioner? (NSMP)			No <input type="checkbox"/> Yes <input type="checkbox"/>
Has the health service received a complaint regarding this clinical incident (from patient, family members or their legal representatives)? No <input type="checkbox"/> Yes <input type="checkbox"/> (if yes, please attach copy of complaint and any response).			
Has health service received an FOI request? No <input type="checkbox"/> Yes <input type="checkbox"/> (if yes, please attach copy of request).			
Health & Disability Services Complaints Office involved? (HaDSCO)	No <input type="checkbox"/> Yes <input type="checkbox"/>		
Has the Coroner been notified?	No <input type="checkbox"/> Yes <input type="checkbox"/>		
Has a claim been made?	No <input type="checkbox"/> Yes <input type="checkbox"/> By whom?		
If yes, how was claim made?	Oral <input type="checkbox"/> Letter <input type="checkbox"/> Writ <input type="checkbox"/> (please attach copy of documentation)		
PATIENT DETAILS			
Patient's Name	Family:	Given names:	
Patient's Address			
Patient's Date of Birth			
Unit Medical Record Number	PUBLIC <input type="checkbox"/> PRIVATE <input type="checkbox"/>		
Date of Incident	MALE <input type="checkbox"/> FEMALE <input type="checkbox"/>		
Is the patient deceased? No <input type="checkbox"/> Yes <input type="checkbox"/>	Is the incident childbirth related? No <input type="checkbox"/> Yes <input type="checkbox"/>		
CLAIMANT DETAILS (if different)			
Claimant's Name	Family:	Given names:	
Claimant's Address		Relationship:	

Important reminder: This Form may be disclosed to a claimant through an application under the Freedom of Information Act 1992 (WA) and the process of discovery in civil litigation. It is important that requested information only is recorded on the Form.

June 2013 version

Appendix B

REPORT FROM HEALTH SERVICE TO LEGAL & LEGISLATIVE SERVICES

***STRICTLY CONFIDENTIAL - PROVIDED FOR THE PURPOSE OF OBTAINING
LEGAL ADVICE***

NAME OF HOSPITAL/HEALTH SERVICE:

PATIENT'S SURNAME:

GIVEN NAME:

DOB:

DATE OF PRESENTATION:

REASON FOR PRESENTATION: e.g. patient complaining of abdominal pain, vomiting +++

WHAT WAS THE DIAGNOSIS: e.g. gastroenteritis

WHAT TREATMENT WAS PROVIDED: e.g. admitted to ward for IV fluids, anti emetics

WHAT IS THE CLINICAL INCIDENT/

OR, WERE THERE ANY UNEXPECTED DIFFICULTIES OR PROBLEMS:

e.g. following discharge patient represented with worsening symptoms. Taken to theatre - ruptured appendix.

WHAT WAS THE OUTCOME: e.g. patient's condition deteriorated rapidly. Transferred to ICU @ RPH

WHAT DATE WAS PATIENT DISCHARGED:

WHERE WAS THE PATIENT DISCHARGED: e.g. discharged home; transferred to another hospital; died

Appendix C



Department of Health
Government of Western Australia

**Non Salaried Medical Practitioners
Medical Treatment Liability Notification Form**

This form is to be completed by the treating doctor whenever the doctor becomes aware of a Potential or Actual Claim arising out of a clinical incident during treatment of a patient.

PLEASE NOTE THAT COMPLETION OF THIS FORM DOES NOT CONSTITUTE AN ADMISSION OF LIABILITY.

1. Name of Hospital / Health Service _____

2. Name of the Patient _____

3. Was the patient *Public* *Private* *Male* *Female*

4. Have you reported the incident to your MDO? *No* *Yes* *Date:* _____
MDO: _____

5. What was the date of the Incident? _____

6. Have you received any correspondence from the patient, their representative or a lawyer regarding the incident? *No* *Yes*

Please attach a copy of any such correspondence to this Notification Form
What action have you taken in respect to this correspondence?

- 7. If you are reporting an **ACTUAL** claim please ensure the following documentation is attached:
➤ any correspondence to or from the patient, their solicitors or representatives.
➤ any other relevant documents, reports, notes – including medical notes held in your *private* rooms.

Important Note: Please DO NOT copy this form or attachments to anyone else.

Doctor's Signature: _____ *Date:* _____

Doctor's Name: _____ *Specialty:* _____
FAMILY GIVEN NAMES

When complete please forward this form to the Director of Medical Services (or equivalent)

September 2009 version

Appendix D

Medical and Nursing Staff involved with the care of **[NAME OF PATIENT]** at **[NAME OF HOSPITAL]**

Admission **[INSERT DATE/S]**

NAME of STAFF (first and last name)	DESIGNATION (i.e. RN, EN, orderly, salaried medical officer, non-salaried medical practitioner, etc.)	EMPLOYMENT STATUS AT TIME OF ADMISSION (i.e. employee, non-salaried medical practitioner, agency nurse)	INVOLVEMENT IN PATIENT'S CARE (e.g. in brief – the date and time at which he/she had contact with the patient)	CURRENT CONTACT DETAILS (i.e. address and telephone numbers, email) Please use hospital address if still at hospital.	LAST KNOWN CONTACT DETAILS (where current contact details unknown)