

Module	PRIVATE HEALTH INSURANCE
Jurisdictions	CTH, NSW, VIC, SA, TAS, WA, NT, QLD, ACT
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Module Scope

Does your organisation provide health insurance products to consumers?

Is your organisation currently registered or does it intend to register as a private health insurance provider with APRA?

Does your organisation have a system in place to ensure that all health insurance products that it offers are complying products in terms of community rating, coverage, benefit, waiting period, portability and quality assurance requirements?

Does your organisation conduct fundraising activities for charitable purposes?

Module Application

The *PRIVATE HEALTH INSURANCE* module informs the Australian private health insurance provider of their legislated legal obligations. The module also demonstrates effective practical advice and assistance to the private health insurance provider to implement procedures and processes that will ensure compliance and regulatory accountability throughout all levels of the organisation.

To fulfil its purpose the module focuses on providing practical assistance to the health insurance provider intending to establish and maintain a robust foundational framework that determines;

- › How the organisation will function;
- › Who is the responsible decision maker;
- › What matters are relevant to the decision-making process; and
- › Whether the desired outcome has been achieved.

The health insurance provider, their employees and authorised individuals are all expected to be familiar with the broad landscape of legal obligations to which they are subject as well as more specific obligations relevant to the particular sector they are operating in. The *PRIVATE HEALTH INSURANCE* module should be subscribed by all Australian health insurance providers, their employees and authorised individuals. The aim of the module is to equip the subscriber with knowledge of their obligations and the skills they require to establish relevant systems and processes to ensure compliance throughout their organisation.

As a key component of Australia's health system infrastructure the private health insurance industry attracts intense government attention. The industry is subject to a complex structure of laws and regulation designed to encourage participation in the industry, to protect the interests of policyholders and to ensure the financial health of individual insurers.

The broad scope of the *PRIVATE HEALTH INSURANCE* module is to provide the health insurance provider with answers to these questions;

- › What are our legal obligations?
- › From where are our legal obligations derived?
- › How can we ensure that we are complying with our legal obligations? and
- › What are the consequences if we are not complying with our legal obligations?

The *PRIVATE HEALTH INSURANCE* module covers all legislated legal obligations of private health insurance providers and demonstrates practical assistance and guidance to ensure that these obligations are complied with through the implementation and maintenance of best practice processes throughout the organisation. The module also covers the role of the regulator as well as exemptions to the obligations, if applicable, and how they may or may not apply in particular circumstances.

The module fulfils this objective by comprehensively covering three areas;

- › Legislation;
- › Obligations; and
- › Consequences.

1. The legislative and regulatory landscape from which the primary legal obligations are derived;

- › Private Health Insurance Act 2007 (Cth);
- › Private Health Insurance (Prudential Supervision) Act 2015 (Cth);

Additional commonwealth legislation that also impacts the obligations of private health insurance providers which includes;

- › Crimes Act 1914 (Cth);
- › Criminal Code Act 1995 (Cth);
- › Financial Sector (Collection of Data) Act 2001 (Cth);
- › Ombudsman Act 1976 (Cth);
- › Competition and Consumer Act 2010 & Regulations 2010 (Cth);
- › Privacy Act 1988 (Cth);
- › Australian Human Rights Commission Act 1986 (Cth);

- › Taxation Administration Act 1953 (Cth);
- › A New Tax System (Medicare Levy Surcharge – Fringe Benefits) Act 1999 (Cth);
- › Health Insurance Act 1973 & Regulations 1975 (Cth);
- › Private Health Insurance Supervisory Levy Imposition Act 2015 & Determination 2018 (Cth);
- › A large number of Commonwealth Private Health Insurance Acts, and Rules;
- › Australian Accounting Standards (Table of Standards);
- › Private Health Insurance Code of Conduct;
- › Australian Prudential Standards;
- › Reporting Standards; and
- › Migration Regulations 1994 (Cth).

In addition to the commonwealth legislation the module also refers to legislation from varied states and territories covering obligations related to;

- › Emergencies;
- › Taxation;
- › Levies;
- › Privacy; and
- › Health.

2. The specific areas where legal and regulatory obligations apply to the private health insurance provider;

- › Regulated activities;
- › Permitted activities;
- › Employee benefit schemes;
- › Registration; and
- › Benefit funds.
- › Incentives and provision of compliant annual statements;
- › Premium reduction scheme;
- › Notifications to medicare;
- › Lifetime health cover; and
- › Risk equalisation risk keeping.
- › Complying Health Insurance Products;
- › Discrimination;
- › Coverage;
- › Benefit requirements;
- › Prostheses benefits;
- › Waiting periods;
- › Portability;
- › Quality assurance;
- › Information statements;
- › The Department of Health and Ombudsman;
- › Policy requirements; and
- › Pilot projects.
- › Governance and boards;
- › Role and composition;
- › Directors and delegation of authority;
- › Chairperson;
- › Charter;
- › Policies;

- › Performance;
- › Renewal; and
- › Internal audits and audit committee.
- › Health benefit funds;
- › Assets;
- › Application for restructure;
- › Merger and acquisition;
- › External management; and
- › Voluntary termination and termination.
- › Cover for overseas visitors and non-residents including students and working and skilled visa holders.
- › Fund solvency requirements and liquidity management plans.
- › Policy and calculation of fund capital adequacy.
- › Maintaining a risk management framework and functions;
- › Identifying risk and determining strategy;
- › Risk culture and appetite;
- › Business plan;
- › Management information systems;
- › Reviews; and
- › Disclosure, notifications and declarations.
- › Outsourcing material business activities;
- › Policy;
- › Implementing risk controls;
- › Disclosure to APRA;
- › APRA access to information; and
- › Outsourcing before 1 July 2015.
- › Quarterly submissions to APRA.
- › Levies;
- › Supervisory, complaints and collapsed insurer levies;
- › Ambulance levy (ACT);
- › NSW levies; and
- › Risk equalisation payment.
- › The appointment and role and duties of the actuary;
- › Notifications;
- › Matters raised; and
- › Financial condition report.
- › Complaints and enforcements;
- › Insurance ombudsman;
- › Internal complaints system;
- › Code of Conduct;
- › Performance indicators;
- › Investigations;
- › Enforceable undertakings;
- › Ministerial directions;
- › APRA directions;
- › Remedies in Federal Court;
- › Pecuniary penalties; and
- › Agreements with medical practitioners.
- › Premium reduction scheme administration;
- › Reimbursement claims;
- › Role of Chief Executive of Medicare;
- › Recovery of payments; and
- › Notification requirements.

- Disclosure of health information;
- Access;
- Amending information; and
- Reporting to the Department of Health.
- Consumer protection;
- Policy wording and contract terms;
- Advertising, marketing and sales;
- Notification of proposed detrimental changes to rules and benefits;
- Payment of benefits;
- Telemarketing and unsolicited sales; and
- Avoiding unlawful discrimination.

3. Significant consequences can apply to Australian private health insurance providers, their employees and authorised individuals found to have breached or not complied with their legal obligations. These consequences vary considerably depending on the nature and extent of the breach or failure. The *PRIVATE HEALTH INSURANCE* module covers specific consequences in detail. They can include monetary penalties, disciplinary measures and even terms of imprisonment for individuals found to have committed serious criminal offences.

The *PRIVATE HEALTH INSURANCE* module does not cover the rights or entitlements of individuals who have suffered damages or losses due to breaches of obligations by private health insurance providers. The module does not cover the process that an entity or an individual would follow to report or seek compensation for their breach or their loss.

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