

**Notice to the profession regarding the provision of Law Practice Certificates under the *Motor Accident Insurance Act 1994 (Qld)* by supervising principals during the COVID-19 pandemic**

**Dated 8 May 2020**

The Queensland Motor Accident Insurance Commissioner has encouraged a common sense approach to claims management generally by all parties in the conduct of CTP claims during this challenging time.

The COVID-19 pandemic requires some level of flexibility to be afforded to a supervising principal who is properly practising social distancing, in self-isolation and otherwise, due to matters outside of their control, unable to comply fully with the new Law Practice Certificate requirements under the *Motor Accident Insurance Act 1994 (Qld)* (**MAIA**).

In order to provide a level of assurance to supervising principals and law firms during this time, the four CTP providers in Queensland - Allianz, QBE, RACQ Insurance, Suncorp, the Queensland Law Society and the Australian Lawyers Alliance, Queensland Branch with the assistance of the Motor Accident Insurance Commission have agreed to the following accommodations, subject always, to the appropriate discretion of the Court in specific circumstances, until further notice:

1. Where a supervising principal is the only principal of the law practice and due to circumstances related to COVID-19 disruption, they are unable to either:
  - a) Provide a law practice certificate in compliance with 36A, 36E, 37AB, 39A or 41A in relation to a claim; or
  - b) To have their Law Practice Certificate declaration witnessed but are otherwise able to complete the certificate to the best of their knowledge;

the supervising principal should:

- advise the respective insurer at the earliest opportunity of the reason for the inability to comply with the Law Practice Certificate requirements and that the certificate (or a fresh duly witnessed certificate) will be provided within a reasonable time frame; **and**
- send an email to the QLS Ethics and Practice Centre at [ethics@qls.com.au](mailto:ethics@qls.com.au) as a record that the practitioner has attempted to comply with the statutory requirements in the provision of the Law Practice Certificate but were unable to do so due to restrictions related to the COVID-19 disruptions. The principal should confirm with the insurer that they have advised the QLS Ethics and Practice Centre.

The certificate requirements should be rectified at the earliest opportunity to do so.

2. Where there is another principal of the law practice or a lawyer who may be nominated by the supervising principal, a supervising principal should have regard to section 36C of the MAIA and consider the manner in which the certificate can be executed if they are unable to do so. QLS Ethics and Practice Centre considers that it would be prudent for the other principal or the lawyer who has been nominated by a supervising principal under section 36C to sign the Law Practice Certificate in their absence, to obtain a copy of the supervising principal's written authorisation and nomination to sign the certificate via email or facsimile, so as to avoid any potential issues at a later stage.

Where difficulties arise in having the law practice certificate witnessed, then the process of advising the insurer and sending an email to QLS confirming in writing that attempts have been made to comply with the statutory requirements should be undertaken.

If during this period, the Law Practice Certificate cannot be witnessed as required but is signed by the supervising principal or a lawyer nominated by the supervising principal and the insurer is advised at the time it is provided with the certificate that a fresh and duly executed Law Practice Certificate will be provided at the earliest opportunity, an insurer will not raise proper completion of a Law Practice Certificate as a compliance issue. In doing so, all of the consequences of a duly executed and witnessed Law Practice Certificate will continue to apply.

Any non-compliance with these requirements during this unprecedented disruption period, should be reviewed and rectified within a reasonable period once the current government health guidelines and restrictions are lifted.

Practitioners are encouraged to contact the QLS Ethics and Practice Centre with any specific queries.