



YOUR DENTAL INDEMNITY INSURANCE EXPERTS

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A BIT ABOUT BARRY. NILSSON.

Barry.Nilsson. is a national law firm with a reputation for excellence in the insurance and health industries. We cover all aspects of insurance, from policy drafting to education and, in particular, claims management. Our primary objective is always effective and efficient claims resolution.

With a national team of more than 140 solicitors, including 21 insurance principals (see Figure 1), we operate across all lines of insurance and in a broad range of industries. As a firm that has specialised in insurance law for over 30 years, we have significant relationships with insurers, brokers, self-insureds and re-insurers both in Australia and overseas.

We're active and engaged, and many of our team hold leadership positions in a range of key industry bodies, like AILA, APIG, ANZIIF and Women in Insurance. Many of our Insurance & Health principals and senior lawyers are recognised by *Doyle's Guide* and *Best Lawyers* as leaders in their field.

Our representative clients include: Experien Insurance, UnitingCare Health, Mater Health Services, Queensland Government Insurance Fund (Queensland Health), Berkshire Hathaway Speciality Insurance, Queensland XRay, I-Med Network Radiology, Tego, Ansvar, Lexon Insurance, QBE and Vero.



No other firm has long term providers with such specific expertise; BN also has greater resources."

Independent Client Listening Survey

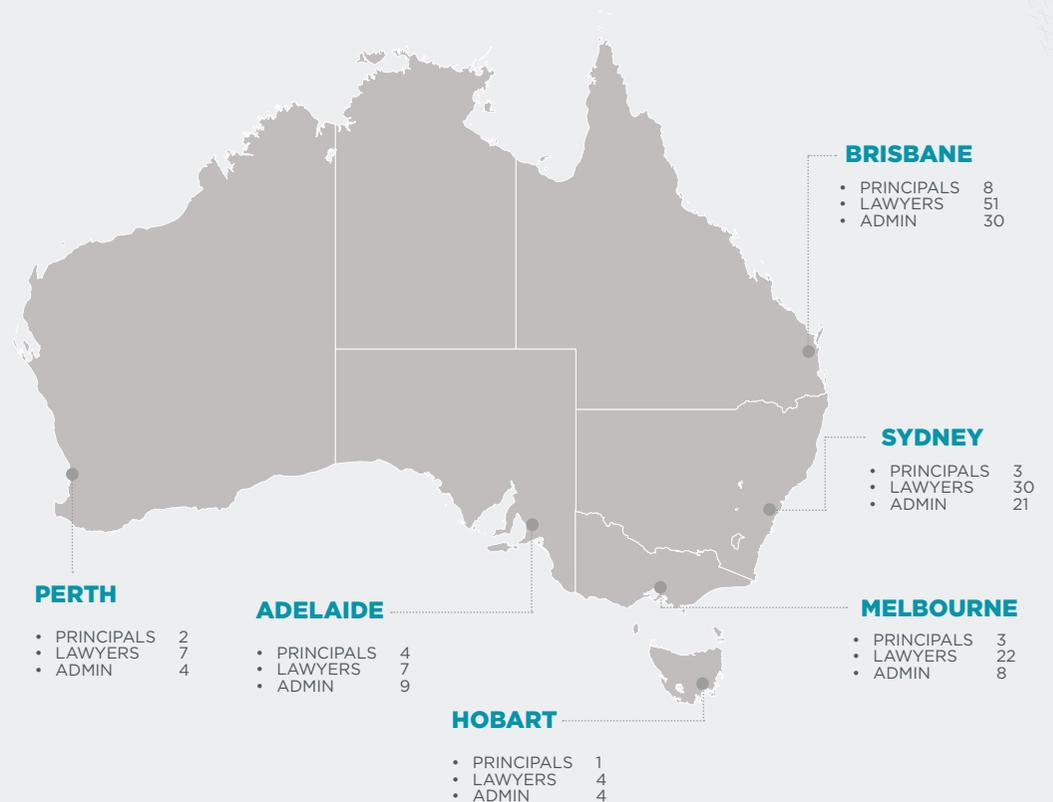


FIGURE 1: BN's national Insurance & Health footprint, with all cities poised for even further growth.

HEALTH LAW IS IN OUR DNA

Our unwavering dedication and unrivalled expertise in the insurance and health sector has resulted in us achieving an enviable reputation among health professionals, brokers and insurers. Some of our lawyer have qualifications in science and other health-related disciplines, which gives them significant insight and understanding of these types of matters.

Others have held in-house legal roles in major hospitals, which means they have experience assisting with a wide range of matters involving medical practitioners and allied health professionals.

With a wealth of experience in handling professional indemnity and medical negligence claims, we are client focused and consider the protection of the practitioner's professional and commercial imperatives to be paramount. We share a mutual concern to ensure that when managing complaints and litigation made against you as a health professional, your professional standing, as well as your livelihood, remains intact.

We do this by:

- understanding your professional objectives
- having a strong practical orientation
- engaging in effective communication
- ensuring innovative and timely strategy implementation
- fostering a co-operative approach
- being readily available.

We love what we do and will bring to each and every claim the energy and efficiency that is so crucial to busy health care professionals, leaving you free to focus on your priority - your patients.



Every step of the way I felt that Barry Nilsson was carrying the burden and stress of the complaint. I genuinely could not have asked for a better experience."

Registered Health Professional

Our health law experience is diverse. Some examples of matters in which we have acted include:

- Defending negligence claims made against health professionals including dentists, doctors, physiotherapists and many other allied health professionals.
- Defending negligence claims against hospitals, pathology practices, imaging practices and fertility clinics.
- Representing various health professionals at coronial inquiries, in investigations, and before professional panels and committees.
- Defending disciplinary proceedings before the Pharmacy Tribunal in matters involving the dispensing and supply of medications, unlawful access to pharmacies, storage of and access to controlled substances, competency issues, and health impairment.
- Providing general advice to hospitals, doctors, dentists and numerous allied health professionals relating to consent, medical procedures, implications of privacy legislation, risk management procedures, medical record legislation, and service agreements.
- Defending dentists, pharmacists, psychologists, physiotherapists and occupational therapists facing conditions being imposed on their registration or facing deregistration.
- Providing advice in regards to ownership of, disclosure of and access to medical records, disclosure of clinical records, and insurance implications of potential copyright and other intellectual property breaches.
- Acting for more than a decade representing doctors before the Queensland Medical Board in matters ranging from alleged drug use to violations of appropriate doctor/patient boundaries, improper prescribing of narcotic medications, as well as in disciplinary complaints and proceedings including competency issues and health impairment.

YOUR REPUTATION IS IN SAFE HANDS

Relevant to your areas of professional expertise, we also have specific experience working with general dentists, oral surgeons, prosthodontists, endodontists and dental prosthetists.

Some specific examples include:

- Defending allegations against a dental prosthetist in a complaint to the Office of the Australian Information Commission that he had breached the privacy of a previous patient by inappropriately disclosing her personal medical information.
- Advising a dentist in relation to allegations of extracting the incorrect tooth and, in particular, the manner of communicating with the patient to reduce the risk of a complaint to the Health Care Complaints Commission.
- Assisting dentists to prepare submissions in reply to complaints notified by the Health Care Complaints Commission in a range of circumstances.
- Defending an oral surgeon who failed to examine the patient post operatively when requested to do so with the result that Ludwig's Angina went undiagnosed and exposed the patient to the risk of serious complications, which had manifested.
- Defending dentists who it was alleged caused lingual nerve damage following the extraction of wisdom teeth.
- Defending a dentist in relation to a complaint made to AHPRA on three grounds: a failure to provide adequate service, a failure to properly supervise personnel, and a failure to maintain adequate records.



Sound advice and strategy, utilisation of the right experts, timeliness in reporting, availability of staff and near-certainty of result."

Sources for Chambers Asia-Pacific 2020

- Defending a dentist in relation to allegations that she had failed to provide pain relief during treatment. Following tooth extraction bone resorption occurred.
- Defending an orthodontist who was a senior practitioner and visiting lecturer in dentistry at a tertiary institution, and had allowed a dental hygienist to perform dental work (on numerous patients including children) that she was not qualified to perform.
- Defending oral surgeons in relation to allegations that their patients developed prolonged and intransigent TMJ dysfunction following oral maxillofacial surgery.
- Defending a dentist in a complaint to the Office of the Health Ombudsman and subsequent referral to the Queensland Branch of the Dental Board of Australia in relation to a patient who developed a life threatening infection and was hospitalised (in ICU for six days) following the removal of a wisdom tooth.
- Acting for a dental prosthetist who had suffered a stroke, which significantly impaired his ability to practise. We successfully negotiated undertakings with the Queensland Board of the Dental Board of Australia at an early stage, on terms favourable to the prosthetist, and persuaded the Board not to disclose details of the undertakings on the national public register.

A DEDICATED DENTAL TEAM



Relationships at all levels lead to trust; they add value and give great service; provide very good value; ability in thought leadership (in options/ recommendations/advice) to think outside the box; give accurate recommendations. Great partner leadership and style of working; efficiency and experience - they just get the job done"

Sources for Chambers Asia-Pacific 2020

NEW SOUTH WALES



SIMON BLACK

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Sydney



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Special Counsel,
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QUEENSLAND



RHETT KENNEDY

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VICTORIA



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SOUTH AUSTRALIA



ANDREW HILDITCH

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BRONWYN ACKLAND

Principal,
Adelaide

WESTERN AUSTRALIA



TOBY BARRIE

Principal,
Perth



DARYL LANGMAN

Senior Associate,
Perth

TASMANIA



PETER FORBES-SMITH

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ALZENA ALI

Associate,
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NEW SOUTH WALES



SIMON BLACK

Principal, Sydney

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Simon is one of the founding principals of our Sydney office and leads the Insurance and Health team in NSW. Simon has spent almost 15 years practicing exclusively in the Insurance and Health space.

Simon's practice revolves around the efficient, effective and strategic handling of litigated and non-litigated claims, complaints and disputes. Simon's emphasis is on achieving sensible, early resolutions and providing responsive and timely advice to his, often extremely time-poor, insured professional clients.

He has acted for and defended a variety of medical and health industry professionals including doctors, dentists, dental prosthetists, orthodontists, pharmacists, chemists, cosmetic surgeons, cosmetic laser skin treatment professionals, psychologists and psychiatrists, masseurs and a range of allied health professionals.

Simon has represented his health clients in disciplinary hearings, complaints and investigations initiated by AHPRA, the HCCC, the Pharmacy Council, the Nursing and Midwifery Council and a range of other self-regulatory health bodies and government authorities. He has also represented a broad range of insureds at significant and high profile government-initiated public inquiries and Royal Commissions.

Simon has also defended his clients in a range of high profile litigated matters in all Courts of NSW as well as in the Federal Court and High Court.



LAUREN RICKERSEY

Special Counsel, Sydney

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Lauren is a Special Counsel in our Sydney Insurance and Health team. Lauren has a proven track record and extensive experience in professional indemnity, medical malpractice and health law. She is highly experienced in defending medical negligence claims and representing dentists, doctors, pharmacists and allied health professionals in relation to both litigated proceedings and complaints made to a range of professional boards and statutory and regulatory bodies.

She advises and prepares submissions for her health practitioner clients who are the subject of complaints made against them to the Health Care Complaints Commission, the Dental Council of New South Wales, the Medical Council of New South Wales, the Pharmacy Council of New South Wales, AHPRA, OAIC and other similar regulatory and statutory bodies. Lauren also assists clients with responding to coronial inquests and complaints arising out of clinical trials run by not-for-profit organisations.

Lauren runs the NSW Experien Dental Scheme and is the direct point of contact for BN's Dental Assistance Line, providing 24/7 legal advice to dentists on matters including professional obligations, patient relationship management, potential disciplinary and litigated proceedings, and general enquiries such as practice management and provision of records. By spearheading this market leading value add offering, Lauren has assisted hundreds of dental professionals in minimising their exposure to professional risks.

QUEENSLAND



RHETT KENNEDY

Principal, Brisbane

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Rhett is the National Leader for the Insurance and Health team and has more than 30 years' experience in insurance law.

Rhett has been recognised in Best Lawyers for Insurance Law since 2016, and was named Lawyer of the Year for Insurance Law in the 2018 edition. He has also been recognised as a preeminent professional indemnity and public liability lawyer in Queensland by Doyle's Guide. In 2016, Rhett was awarded Life Membership by the Australian Insurance Lawyer Association (AILA).

Rhett has acted for all major health professions over the years in unlitigated claims, PIPA proceedings, litigated proceedings, disciplinary proceedings and coronial inquests. He is intimately familiar with the legal, medical and insurance aspects of these matters. Rhett has handled claims from the most minor through to catastrophic injuries and death involving both negligent treatment and failure to advise claims.



GILLIAN SHEPPARD

Special Counsel, Brisbane

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Gillian Sheppard is a special counsel in our Insurance and Health team. Since her admission in 2000, Gillian has practised exclusively in insurance law, including spending a year in London working for a global insurer in their UK Claims Operation PI team.

With a strong background in professional indemnity, Gillian's is very experienced in defending professional negligence claims and complaints made against a range of professionals to tribunals and registration boards. In the health law area, Gillian has acted for insureds including nurses, occupational therapists, optometrists, physiotherapists, podiatrists, psychologists, radiologists, massage therapists, natural therapists and medical centres.

Gillian has particular expertise in defending claims against dental professionals, including claims from the National Dental Scheme for Experiens. Gillian is also experienced in medicare and private health insurance audits for dentists.

VICTORIA



HUBERT WAJSZEL

Principal, Melbourne

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Hubert is a principal of our Melbourne office, and leads the professional indemnity team in Victoria.

After completing his law degree, Hubert worked inhouse at the Australian Medical Association (Victoria), which nurtured his interest in professional indemnity. Since then, he has practised predominately in this area in firms both in Australia and the UK.

Hubert specialises in professional indemnity insurance with a special focus on health care, local government, construction and financial institutions. He has defended claims made against directors and officers in a wide variety of professions, including in the health sector; employers in all facets of employment practice liability; and a variety of individuals who are the subject of defamation proceedings.

Hubert currently acts for Experien insureds. In one recent matter, resolved on excellent terms, the insured health practitioner wrote:

"Thanks so much for everything! What a relief. You have done such an amazing job.... This is the best Mother's Day present for me. I can't recommend you highly enough. Thanks once again and I wish you very best for everything in your future."

Since 2016 Hubert has been recognised in *Doyle's Guide* as a recommended professional indemnity and public liability lawyer in Victoria.



SCOTT SHELLY

Special Counsel, Melbourne

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Scott is a special counsel in the insurance and health team and is based in the Melbourne office. He has extensive experience in health law.

Scott has acted in numerous negligence claims against dentists, dental clinics, health care providers, hospitals and other health practitioners. Scott also has experience acting for health practitioners in complaints and notifications to AHPRA and to Health Complaints Commissioner. He also provides risk management advice to health practitioners and health care providers. Scott's experience extends to coronial law where he has appeared and advised on coronial investigations and inquests.

Scott's experience extends to defending dentists including specialists in AHPRA notifications and complaints to the Health Complaints Commissioner concerning, among other things, alleged inappropriate treatment, boundary transgressions, a failure to obtain informed consent and practising outside of scope of practice. He has advised dentists in numerous health funds audits, and defended dentists and clinics against court proceedings for alleged negligence. Furthermore, Scott has acted for an endodontist and dental clinic in a coronial investigation.

Scott is listed in *Best Lawyers 2021* for Insurance Law and has a Masters of Law (with a minor thesis on medical practitioners' duty of confidentiality).

SOUTH AUSTRALIA



ANDREW HILDITCH

Principal, Adelaide

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Andrew has over 30 years' experience in insurance law, specialising in professional indemnity claims.

Andrew acts for various London and Australian underwriters with respect to professional indemnity claims against medical practitioners, chiropractors and physiotherapists, amongst others. He has acted for underwriters in the USA and France with respect to professional indemnity claims.

Andrew has also acted in medical malpractice insurance schemes covering various health professionals, including dentists, oral surgeons, chiropractors, physiotherapists and surgeons.

His experience includes acting in numerous medical malpractice actions, including claims arising from a failed tubal ligation alleged negligent treatment by an oral surgeon and alleged negligent treatment by a chiropractor.

Andrew is listed as a leading professional indemnity lawyer in the 2016 - 2020 *Doyle's Guide* and is recognised in the 2018 - 2021 editions of *Best Lawyers for Insurance Law*.



BRONWYN ACKLAND

Principal, Adelaide

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Bronwyn has over 20 years' experience in insurance litigation, specialising in the area of professional indemnity. She has acted in numerous cases involving defending medical malpractice claims.

Bronwyn also has experience in personal injury claims including catastrophic injuries arising from medical negligence, motor vehicle accidents, work injury, sporting accidents and public liability.

Bronwyn has experience acting for Experien insured dental professionals.

Matters in which she has been instructed include drafting responding submissions to AHPRA following an audit undertaken to determine whether a practitioner had met the requirements of conditions imposed by the Performance and Professional Standards Panel through the completion of shorted mentoring. The Board has determined that his practice is or may be unsatisfactory. They have refused his application to remove the conditions and he has been invited to provide written submissions in response to that decision.

Bronwyn also responded to a complaint lodged with APHRA against a practitioner by a patient who alleges that the practitioner performed unsatisfactory work in making some dentures, and that he acted aggressively and intimidated her. The patient has sought an apology and disciplinary action against the practitioner. Bronwyn assisted with his responding submissions.

WESTERN AUSTRALIA



TOBY BARRIE

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Toby specialises in professional indemnity; directors' and officers' (D&O) liability; errors and omissions (E&O) and management liability.

Toby regularly acts on behalf of professional indemnity insurers defending professional negligence claims against insureds in a wide range of professions. He has also acted in connection with investigations instigated by regulatory and disciplinary bodies. More specifically, Toby has acted for the professional indemnity insurers of various professionals, including all types of medical practitioners in relation to disputes litigated in the District Courts, Supreme Courts and the Federal Court of Australia.

Toby is listed in both the 2018 - 2021 editions of *Best Lawyers* for insurance law and has been recognised in the *Chamber's Asia-Pacific Guide*. He is also listed in *Doyle's Guide* as one of Western Australia's leading medical negligence lawyers and professional indemnity lawyers.



DARYL LANGMAN

Senior Associate, Perth

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Daryl has extensive experience in insurance law with a focus on health.

Daryl has worked for insurers, corporate healthcare providers, self-insureds and medical defence organisations, regularly advising in relation to damages in negligence for death and bodily injury, litigation, risk management and legislative compliance. He is skilled at employing strategies to reduce the value of a claim and always strives to achieve a strategic settlement at the earliest opportunity.

He currently acts on behalf of professional indemnity insurers defending professional negligence claims against insureds in a wide range of professions. He has also acted in connection with investigations instigated by regulatory and disciplinary bodies (including AHPRA).

He regularly conducts Coronial inquests before the Coroner's Court of Western Australia, both for individuals and corporate entities. Daryl has also been instructed to assist in a number of high profile Inquiries and investigations, including the Royal Commission into Aged Care Quality and Safety and the Inquiry into the City of Perth (both commissioned pursuant to the *Royal Commissions Act 1968* (WA)).

TASMANIA



PETER FORBES-SMITH

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With over 40 years' experience handling general insurance claims in TAS, NSW and ACT, Peter is regarded as a leading insurance lawyer in Tasmania. He is an Accredited Specialist in Personal Injury Law (NSW) and his casualty experience extends to catastrophic personal injury claims involving quadriplegia, paraplegia, and brain injury.

Peter also has extensive experience managing professional indemnity claims on behalf of a range of insureds, including health professionals. He has advised and represented the interests of professionals before Tribunals under enquiries including AHPRA.

Peter has been instructed in claims relating to investigations/enquiries by various health regulatory bodies and AHPRA. Several matters involved complaints against health professionals as well as claims for compensation. The complaints/claims were against dentists, dental hygienists, nurses, midwives, physiotherapists, occupational therapists and alternative medicine consultants.

Peter also advises clients in relation to coverage issues, including considerations of business descriptions, occurrences, notification, claims made in professional indemnity policies, and exclusions.



ALZENA ALI

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Alzena has a broad range of experience in general insurance and commercial litigation and now specialises in professional negligence, personal injury and CTP matters. Her professional indemnity experience includes defending complaints against health professionals before AHPRA and claims for compensation.

Alzena also has experience advising insurers in relation to the applicability of professional indemnity policies to counsellors and social workers, which required detailed analysis of terms and exclusions within professional indemnity policies.



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