

Workshop recap: Medico-legal challenges in modern healthcare, Sydney

Reading time:

MIPS Admin

Date created: 11/06/2026

Thank you to everyone who joined us in Sydney for our first medico-legal workshop of 2026. Below is a summary of the key takeaways from each session.

Session 1: Privacy and AI update

- Privacy law in NSW operates across two frameworks: the Commonwealth Privacy Act (13 Australian Privacy Principles) and the NSW Health Records and Information Privacy Act (15 Health Privacy Principles). Both apply to all private health practitioners in NSW.
- Health information extends beyond the medical record. It includes images, audio recordings, opinions, and information provided by third parties, and patients have rights to access all health information you hold about them, subject to privacy laws.
- Surveillance device laws across all Australian states and territories make it a criminal offence to record a private consultation without consent. Before using AI transcription tools, inform patients, explain how the technology works and how data is stored, and obtain and document informed consent prior to every recorded consultation.
- AI scribes must store data within jurisdictions subject to privacy laws substantially similar to Australia's. Clinicians should seek legal advice if uncertain and obtain patient consent before any overseas data transfer.
- AI-generated records may contain hallucinations. Practitioners have a legal and professional obligation to review outputs carefully, correct errors, and sign off on documentation before it becomes part of the clinical record.
- Regarding the health information of a deceased person, disclosure may be permitted where there is a serious and imminent threat to health or safety, the information is genetic and could lessen a threat to a genetic relative, or the information is sought by an immediate family member for compassionate reasons. Any decision to disclose should be documented, including who requested access, their relationship to the individual, the grounds for disclosure, and what was provided.

Resources

- [AI Scribes Fact Sheet](#) | MIPS
- [Australian Privacy Principles](#) | OAIC
- [NSW Privacy Laws](#) | IPC NSW
- [Access to a deceased person's health information](#) | IPC NSW

Session 2: Prescribing update

- Prescribing in Australia involves both Commonwealth and state legislation, particularly for Schedule 8 medications, where state requirements vary significantly.
- In NSW, prescribing psychostimulants requires either authority from the NSW Ministry of Health or an appropriate endorsement or qualification. Prescribing without the correct authority is a criminal offence and may result in regulatory action or prosecution.
- Since 1 September 2025, GPs may continue prescribing for non-drug-dependent patients aged 6 and over who have already been diagnosed with ADHD and commenced on treatment by a specialist, without an individual patient approval, provided they have completed endorsed training, have an established therapeutic relationship of more than 12 months, prescribe within the maximum daily dose, and check SafeScript NSW before prescribing. Otherwise, an individual patient authority is required.
- Understanding your prescriber category is essential. If in doubt, seek advice before prescribing.

Resources

Session 3: Cultural safety and dealing with racism

- Under sections 140 and 141 of the National Law, practitioners and employers must make a mandatory notification if they form a reasonable belief that a registered health practitioner has engaged in notifiable conduct, including practising while intoxicated, sexual misconduct, or placing the public at risk of harm.
- You are not obligated to treat patients except in an emergency. If you feel unsafe about continuing to treat a patient, consider terminating the therapeutic relationship, following a documented process and ensuring continuity of care where it is safe to do so.
- If you experience or witness racist conduct from a colleague, consider your mandatory reporting obligations. Where the mandatory reporting threshold is not met, consider whether you feel safe raising feedback directly.
- Your workplace has obligations to provide you with a psychosocially safe place of work. If you own a practice, those same obligations extend to your workers, including contracted GPs and dentists.

Resources

- [Making a mandatory notification](#) | Ahpra

Session 4: Trends and update in dental practice

- You have a professional obligation to have an open disclosure discussion with patients about adverse events and to respond appropriately to any complaints raised. An apology is not an admission of guilt.
- Before signing a contract, review it closely and seek advice where needed. Pay particular attention to clauses relating to complaint handling, indemnity obligations, and any requirement to complete unfinished treatment or reimburse a clinic for replacement work. If such clauses exist, clarify the scope, timeframe, and cost expectations, and seek advice on whether they are enforceable.
- Confirm complaint handling processes with the clinic before complaints arise, including who will respond, timeframes for notification, access to clinical records, and your opportunity to seek independent advice from your MDO.
- Aim for a coordinated response with the clinic and avoid inconsistent messaging. Conflicting responses can escalate complaints and confuse regulators.

Resources

- [Handling Complaints and Adverse Events](#) | MIPS
- [Early Release of Superannuation to Fund Dental Treatments](#) | MIPS

Further reading

- [Testamentary Capacity: Medico-legal risks in clinical practice](#) | MIPS
- [Children: Custody, competence and consent – Managing parental disagreement](#) | AJGP

Disclaimer:

Medical Indemnity Protection Society ABN 64 007 067 281 | AFSL 301912

All information on this page is of a general nature only and is not intended to be relied upon as, nor to be a substitute for, specific legal or other professional advice. No responsibility for the loss occasioned to any person acting on or refraining from action as a result of any material published can or will be accepted by MIPS.

You should seek legal or other professional advice before relying on any content, and practise proper clinical decision making with regard to the individual circumstances.

Information is only current at the date initially published.

If in doubt, contact our claims and 24-hour medico-legal advice and support team on 1300 698 573.

You should consider the appropriateness of the information and read the [Member Handbook Combined PDS and FSG](#) before making a decision on whether to join MIPS.

