

SESSIONAL ROOMS

**THE BUSINESS OWNER
LOOKING TO RENT OUT
SESSIONAL SPACE IN
THEIR ROOMS**

It is important to understand you are providing a professional/administrative service and as such - this brings risk. An example risk is your receptionist breaching privacy of one of the room rental

practitioner's patients, or filing away test results without first providing them to the room rental practitioner.
What can you do to manage and mitigate your risks?

1	Written contract	Have an appropriate written contract drawn up which details the parties obligations, the services provided, agreed fees, termination conditions and what to do in a dispute, etc. The contract should also make it clear the room rental practitioner is running their own business and as such they are responsible for their errors and need to ensure they have appropriate insurances such as medical indemnity, public liability, workers compensation. They should also be required to adhere to your policies and procedures (e.g. your HR policies on bullying and harassment etc). Speak to your MDO/AMA/College and ask for their assistance in what else might also be included, such as ownership of patient records and rights of access in the event of a claim.
2	Professional Indemnity covering room rental activities	If you are a sole practitioner with a nurse and receptionist you may be relying on your own personal medical indemnity policy to cover your practice. However be aware that the 'trigger' of your policy is likely to be 'your treatment of your patient'. So should your reception staff make an error on a patient of the room rental doctor (e.g. filing away patient test results rather than bringing these to the doctor's attention), you may find your own medical indemnity won't respond. A separate policy for the practice may be required.
3	Public Liability	You should already have a public liability policy (either \$10m or \$20m cover) noting you as the tenant (if you lease the premises) or property owner and tenant (if you own the premises). Ensure you have disclosed to your insurer you also rent out sessional rooms to practitioners and that you are covered for your liability if drawn into a claim (e.g. the room rental doctor leaves their laptop cord exposed and a patient trips over it – the patient may still try to join you to the claim as your name is on the front door). Further, ensure the room rental doctor has their own public liability (minimum \$10 million cover) and consider requiring them to name you as an interested party on their policy (so that you can claim indemnity under their policy for the above matter).
4	Your reputation	Depending on the look and feel of the rooms, to an outsider it might appear the room rental practitioner is in fact part of your business, rather than their own entity. So careful due diligence of room rental practitioners might be as important as the process you adopt when employing your own staff. Your reputation is one of your most valuable assets, so take the time to select the right room rental practitioners.

Chris Mariani exposes the risks faced by the lessor *and* lessee.

For many practitioners (particularly specialists), transitioning to private practice often initially involves renting sessional rooms on a part-time basis, with the longer term strategy to lease or acquire their own rooms down the track. For established practitioners, renting out sessional space makes business sense. But what are the risks and what should

you consider before you take the leap? This article assumes a common room rental structure, where the practice renting out sessional rooms provides administrative service to the room rental practitioner – such as reception, typing, billing, patient records, bookings, etc. This structure differs to merely leasing out a vacant space.

THE PRACTITIONER LOOKING TO RENT SESSIONAL ROOMS

You are running your own business and while you may receive some support from the practice you are renting rooms from, you need to approach the room rental

arrangement from a business perspective. As an independent business, you are responsible for your errors, so take the time to ensure you understand what you are signing up for.

What can you do to manage and mitigate your risks?

1	The room rental contract	It is likely that if there is a written contract, it has been drafted by the practice's lawyers – so seeking your own legal advice is important to make sure the terms and conditions are fair. Many room rental arrangements are informal and as such there is no contract. You may decide this is fine, but gives you no certainty in many areas such as agreed services, termination, etc.
2	You are an independent business	You should ensure you have all of the right insurances in place. The most common mistake I witness is room rental practitioners not holding their own public liability. A \$10 million policy can be purchased for under \$500 for a sole trader as the risk is low (e.g. a patient or visitor tripping over your doctor's bag or laptop cable). Now is likely a good time to review your medical indemnity cover as you will likely be facing increasing premiums as your private billings increase.
3	Selecting the right rooms and services	Do your due diligence on the practice. Are you satisfied with the quality of their staff, procedures, facilities etc. The rooms have a direct impact on how your patients view you, so selecting the right sessional rooms is as important as when/if it comes time to lease or purchase your own rooms.
4	Have a plan B	What happens if the rooms are suddenly sold, or a fire or storm damage occurs? Do you have a business continuity plan as to how you will continue to see patients if you can't access the rooms?
5	Policies and procedures	Review what written policies and procedures you are required to have (can the practice assist?). For example every business that provides a 'health service' is required to have a written Privacy Policy. See my article in the Winter 2014 edition.

A NOTE ON CONTRACTS...

It is prudent to seek legal advice before you enter into any contract. From a risk and insurance perspective, some of the items to consider:

- **Indemnity clause** – the standard legal position is on the basis of 'you're responsible for your mistakes and I'm responsible for mine'. If the contract changes this position it can impact on your insurances and leave you exposed to uninsured claims. Speak to your lawyer about the intent of the indemnity clause and make sure you understand the impacts. Secondly, have your insurance broker review the contract and advise you on insurance issues.
- **Insurance clause.** Most contracts contain an insurance section specifying what insurances are required and by whom. For example, this could include Medical Indemnity, Public Liability, Workers Compensation (where required) and insurance for any contents and equipment. Clearly stipulating what insurances each party is required to hold avoids any issues.

WHAT ELSE CAN YOU DO TO MANAGE YOUR RISKS?

Finally, having an insurance broker as part of your team is one of the best risk management actions you can take. Use a broker who specialises in the medical field, as the risks in medical practice are unique and complex. A broker will provide you advice on your circumstances, just as your lawyer or accountant does. ④

If you have any questions or need advice on your insurances, please contact Chris Mariani on 0419 017 011, or email chris@mgrs.com.au

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