

Employer's Professional Liability Insurance: Are you covered? Potential pitfalls of relying on an employer's policy

Dr. Smith is employed as a psychologist in a hospital. Recently, he was notified by his provincial regulatory body that a former patient had made a complaint against him alleging that Dr. Smith behaved unprofessionally and was biased in his provision of care. Dr. Smith turned to the hospital's professional liability insurance policy for representation and protection. Unfortunately, as is the case with many hospital policies, Dr. Smith is only covered if he is named in a Civil action. Complaints made to a provincial or territorial regulatory body of psychology, such as claims of unprofessional attitude or improper conduct, are often excluded from an employer's policy. Dr. Smith is unsure what to do next and he's worried about his ability to finance an adequate legal defence.

A review of claims made to the CPA/CPAP insurance program suggests that regulatory complaints make up more than 80% of claims against participating psychologists. Those relying on employer coverage would be left to independently secure legal representation to defend against these claims and would be responsible for the associated costs.



The above scenario illustrates one of the reasons why some psychologists working in public practice have decided to purchase their own independent professional liability insurance.

However, there are many who are still relying on their employer's policies, thinking they are well protected in the case of a claim. Some of these psychologists have been surprised to find that there are other gaps in the protection offered by their employer's policy.

FOR INSTANCE, AN EMPLOYER'S POLICY:

Generally provides coverage ONLY for work done in the employment setting. Complaints related to services provided outside of the workplace, such as advice to a neighbour, volunteer work, or other paid services are often excluded from an employer's policy.

Generally shares limits of liability with all employees and the organization involved in a claim instead of having an individual limit of liability. If these limits are exceeded, the psychologist may become responsible for a portion of legal costs, including settlement or damage costs;

Does not typically reimburse criminal defence costs, for instance allegations of physical or sexual assault that are brought before a criminal court.

Generally is in place to protect the interests of the employer as the primary policy holder. While an employer's insurance policy is in place first and foremost to protect the best interests of the employer, the CPA/CPAP insurance policy protects the personal assets and interests of the individual member psychologist. Psychologists participating in the CPA/CPAP program can rest assured that sufficient coverage is in place to defend and pay valid claims in a timely manner. Legal representation for Civil and Regulatory claims is provided at no cost to you and without having to pay any deductible or additional fees.

The above list includes only some of the significant reasons it is important to protect yourself. A prudent way to ensure comprehensive professional liability protection is by securing an independent policy. You can then be confident that your interests will be upheld and that your reputation and assets will be protected.

Members participating in the CPA/CPAP insurance program also have access to pro bono legal services from Gowling WLG (Canada) LLP, one of the most highly recognized legal defence firms in medical defence and professional liability in Canada. This free, confidential legal advice is designed to help avoid or reduce the probability of a claim or complaint and is available to participating members should you have questions related to an actual or potential professional liability claim.

Don't take risks with your protection. For further information about the CPA/CPAP Professional Liability Insurance Program, or to purchase or renew coverage visit www.psychology.bmsgroup.com, or contact BMS Canada Risk Services Ltd. (BMS Group) at **1-855-318-6038** or psy.insurance@bmsgroup.com.