



# Insurance and Legal Services for Social Workers

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# Overview



## Insurance

Purpose of Insurance

Types of Claims

CASW Insurance

## Legal Defence and Risk Management

College Complaints

Civil Liability

How to Minimize Risk

# Purpose of Professional Liability Insurance



## Why do I need insurance?

*As a health professional, you can be found legally responsible for the professional errors, omissions and negligent acts associated with your practice as a Social Worker.*

*You are also expected to maintain the standards of practice of the profession and practice in an ethical manner.*

# Purpose of Insurance



The purpose of insurance is to pay claims

Professional Liability Insurance pays for your

*LEGAL FEES* and *COMPENSATES YOUR CLIENT*

Client Compensation (damages): Could include costs of medical care, loss of income, housekeeping and home maintenance services, pain and suffering, etc.

# Types of Professional Liability Claims



**Civil Claims** (e.g.: bodily injury due to negligence)

- Lawsuit
- Civil court

**Regulatory Complaints** (e.g.: unprofessional/biased treatment; false documentation)

- College

**Criminal Claims** (e.g.: sexual assault)

# Other Types of Insurance Claims



## Commercial General Liability Claims

- eg: client slips and falls on your premises
- eg: you damage client's property while doing home visit

## Office Contents, Crime, Business Interruption Claims

- eg: flooding causes damage to your office contents and you are forced to close for 1 month for repairs.

# CASW Insurance Program

Coverage limits and details

# CASW Insurance Program



Plan 1	Professional Liability Insurance (PLI) Commercial General Liability (CGL)	5M/5M 5M/5M	\$131
Plan 2	PLI CGL Office Contents, Crime, Business Interruption	5M/5M 5M/5M	\$252
Plan 3	PLI only	5M/5M	\$105

## Also included with PLI:

Regulatory Legal Expense coverage: \$200,000 per claim; \$200,000 per year

Criminal Defence Costs: \$150,000 per claim; \$150,000 per year  
(REIMBURSEMENT if NOT GUILTY)



# Legal Defence and Risk Management

# Gowling WLG's approach to legal services



Gowling WLG's focus in delivering legal services under the CASW professional liability program has two parts:

1. Ensuring members receive a quality defence whether they are subject to a complaint before their respective College or named as a defendant in a lawsuit
2. Working with the CASW, BMS, and the insurer to promote risk management strategies to reduce and minimize the possibility of loss in the future

# Involvement by Legal Counsel



1. Involvement by legal counsel is triggered by the early reporting of a complaint or civil action
2. Cases are assigned by your insurer to Gowling WLG (if in British Columbia, Alberta, Ontario or Quebec) or to another firm if in one of the other provinces
3. Our goal is to be in contact with a member, after the file has been assigned, within 24 hours
4. Legal counsel will then assist you with the College matter or civil claim

# College Complaints / Investigations

## Process and Possible Outcomes

# Navigating a College Complaint/Investigation



1. Complaints to provincial regulators constitute the majority of the claims
2. Provincial regulators all have broad powers to investigate complaints
3. Anyone can file a complaint- client, friend or family member of a client, a colleague or an employer
4. Most complaints arise from client interaction, but can also arise from non-interactive activities
5. Complaints can lead to broader investigations
6. Regardless of whether there is any merit to the complaint, treat it seriously

# Notification of a College Complaint



1. Statutory obligation to process all complaints
2. You will be notified of the complaint
3. You will be afforded an opportunity to respond to the complaint
4. Once you receive notification of the complaint, you should contact BMS as you may have coverage to have a lawyer assist you with the matter
5. Your regulator assumes that you will seek out legal assistance when you receive a complaint. Regardless of how trivial you think the complaint is, you should consider seeking out legal assistance to help you prepare your response

# Responding to a Complaint



1. The response is important. It is your opportunity to explain your position and why you disagree with the complaint
2. When drafting your response, make sure you have reviewed all of the necessary documents, including the patient chart (if applicable)
3. Compose yourself and do not rush
4. Make reference to patient chart, where applicable
5. You should not alter/amend a record after a complaint is filed
6. Discontinue treatment of patient after notice of complaint is received

# Responding to a Complaint

## Continued



1. Your response will be provided to the complainant
2. You may have a further opportunity to respond
3. Your regulator may ask for further information or ask specific questions that you need to answer
4. Any response to your regulator should be courteous and professional
5. You are the health professional - your regulator has an expectation that you will conduct yourself as a professional at all times



# Outcomes



1. Various outcomes available
2. Varies by province - you should consult the website of your regulator for further details
3. Some common outcomes:
  - Take no further action
  - Appear before the Complaints Committee to be cautioned
  - Educational disposition
  - Referral to determine competency to practice
  - Referral to discipline

# Civil Liability

# Civil Claims



The civil litigation system in each province differs, however, there are some common traits:

- In order to start an action, you are served with a statement of claim
- If you deny the allegations, then a statement of defence is filed on your behalf
- Discoveries (depositions)
- Mediation
- Pre-trial conference
- Trial

# Civil Liability



*In order to succeed in a claim of negligence against a health care professional, the plaintiff must obtain an expert opinion that states that the health care professional fell below the standard of care and that this breach of the standard of care caused or contributed to the damages sustained by the plaintiff.*

# Pro bono Legal Advice

# Pro bono Legal Advice

## Seek assistance



If you have a practice related question, you can consult with the following sources:

1. Consult the resources available on the website of your provincial regulator
2. Most Colleges have a practice advisor that can provide advice to you on a confidential basis. This should be used for general questions.
3. Gowling WLG offers a pro bono legal services hotline for any questions that you may have regarding professional liability

**30 minutes of free legal advice is available**

**1-866-778-7191**

# Questions?

# Thank you

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