

# Employer's Professional Liability Insurance:

## Are you covered? Potential pitfalls of relying on an employer's policy

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

A review of claims made to the CASW insurance program suggests that regulatory complaints make up the majority of claims against participating social workers. 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 advantages of having your own independent professional liability insurance.

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

### **FOR INSTANCE, AN EMPLOYER'S POLICY:**

**Does not generally provide coverage for regulatory complaints.** As noted above, social workers relying on employer coverage will likely become responsible for managing their legal defence and bearing all the costs associated with responding to a complaint made to their regulatory body.

**Generally provides coverage ONLY for work done in the employment setting.** Complaints related to services provided outside of the workplace, such as 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 social worker may become responsible for a portion of legal costs, including settlement or damage costs.

**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 CASW insurance policy protects the personal assets and interests of the individual member. Social workers participating in the CASW 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.

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

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 CASW 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 CASW Professional Liability Insurance Program visit [www.casw.bmsgroup.com](http://www.casw.bmsgroup.com) or contact our broker, BMS Canada Risk Services Ltd. (BMS Group) at **1-844-583-7747** or [casw.insurance@bmsgroup.com](mailto:casw.insurance@bmsgroup.com).