

## PROFESSIONAL LIABILITY INSURANCE FOR PHYSIOTHERAPIST ASSISTANTS: NECESSARY, NEGOTIABLE, OR NOT REQUIRED?

As a physiotherapist assistant (PTA), your profession continues to evolve and you have ever increasing responsibility for patient care. Even though PTAs are not directly regulated by a professional body, there is nevertheless an expectation that all members of the healthcare team will deliver safe, effective care and be accountable for their own performance.

Unfortunately healthcare delivery is not error-proof. Patients can become injured in the course of their care, and each year hundreds of patients lodge complaints and file lawsuits against their healthcare providers because of these injuries. It's also becoming more common for patients to name not only the treating physiotherapist in a statement of claim, but all those involved in their care, including the PTA.

### **Can you picture yourself in this situation?**

Fatima works as a PTA in a long-term care facility in Toronto. Several months ago, Fatima was helping to mobilize an 80-year-old resident when he fell and fractured his hip. Fatima and the patient's physiotherapist are both named in a lawsuit alleging negligence in assessing the patient's fall risk, failure to supervise the patient appropriately when walking, and failure to provide adequate support and assistance to prevent the fall. The patient is seeking \$300,000 for pain and suffering.

### **Or picture this:**

Tim works as a PTA in a multidisciplinary clinic in northern Ontario. A patient at the clinic was being treated for a knee injury following a skiing accident, and had a moist heat pack, with towelling and a terry cloth cover applied to her knee. The patient suffered second degree burns to her knee, requiring surgical debridement and plastic surgery. Tim, the treating physiotherapist, and the clinic are all named in a lawsuit alleging negligence in that the care team did not properly monitor the patient while using the hot pack. The claim is settled for \$75,000.

If you're like many PTAs, at one point in your career you've likely asked yourself whether or not you need professional liability insurance. You're a professional. You work with patients. And your patients might become injured during the course of their treatment. If the injury was the result of your professional negligence, your patient might look to hold you responsible for that injury.

That's where professional liability insurance (PLI) comes into the picture. A PLI policy should cover your legal costs and also pay any damages or settlement costs awarded to your injured patient under these circumstances.

So the question is this: Does a PTA need PLI? The answer is, yes... but depending on where you work, you may already have coverage. Below are two different workplace examples and further questions to help you decide whether or not you should consider getting your own PLI policy.

### **I work in a hospital:**

PTAs working in hospitals are generally protected under the organization's professional liability insurance policy for activities that are within the scope of their employment. You may also be covered under your supervising physiotherapist's policy. For more information about how a physiotherapist's policy might protect PTAs, please see the article "We have PTAs covered" under Risk Resources at [www.cpa.bmsgroup.com](http://www.cpa.bmsgroup.com).

### **Key points:**

1. A hospital policy generally shares limits of liability with all employees and the organization. If these limits are exhausted, you could become responsible to pay for your own defence costs and any damages or settlement costs out of pocket.
2. You cannot rely on the hospital's policy to protect you for work done outside of the hospital and/or outside of the scope of your employment (for instance, if you work or volunteer as a PTA elsewhere).
3. A hospital policy does not typically respond if you are brought before a criminal court (for instance, to defend against allegations of physical or sexual assault).
4. Many hospital physiotherapists also rely on the organization's insurance policy for their PLI coverage. You cannot count on your supervising physiotherapist's insurance policy to cover you if they don't have a policy of their own in the first place.

### **Recommendations:**

- Ask the hospital if you're covered under their insurance policy and if there are any coverage restrictions.
- Ask what the policy limits are, how much coverage there is for legal defence costs, and if you will have to pay any deductible.
- If you feel that the hospital policy is not adequate, or if you work or volunteer outside of the facility, consider getting your own PLI coverage.

### **I work in a private clinic:**

If you are employed by a private clinic you may be covered under the clinic's professional liability insurance policy. You may also be covered under your supervising physiotherapist's policy.

#### *Key points:*

Points 1 and 2 above apply here too, provided the clinic has a professional liability insurance policy to protect their business and staff. Not all do. In fact, some clinics may be relying on staff to have their own coverage, knowing that this is a requirement for regulated health professionals.

3. Not all PLI is created equal. While the PLI policy available for physiotherapists in the CPA insurance program provides comprehensive coverage that extends to the PTA, many other policies do not. You may be working with a number of physiotherapists. Do you know if they are CPA members? Do you know where they get their insurance from? Even if all your physiotherapist colleagues have policies that will extend to cover you, you're still at the mercy of their policy coverage, limits, and claims management.

#### *Recommendations:*

- Ask the clinic if they have a business professional liability insurance policy that covers staff, including PTAs.
- Ask what the clinic's policy limits are, how much coverage there is for legal defence costs, and if you will have to pay any deductible.
- Ask your physiotherapist colleagues the same questions.
- If you feel that the clinic and/or physiotherapist's policy is not adequate, consider getting your own PLI coverage.

It's important that you have adequate coverage in place to support you if ever needed.

The CPA Member Insurance Program is designed to provide leading cover, service and resources for physiotherapists and PTAs.

### **As a CPA member, you have access to:**

- Exclusive, leading coverage designed specifically for PTAs at a discounted rate;
- Pro bono legal hotline with Gowling WLG, a leading Canadian law firm for any enquiries relating to a professional liability issue;
- Industry-specific risk management resources, including profession-specific claims updates and regulatory trends;
- Peace of mind that you are supported by the largest network of physiotherapists and PTAs in Canada with advocacy from your national and provincial professional associations.

### **No matter where you work as a PTA, ask yourself these questions:**

- Do you have multiple places of employment?
- Do you ever volunteer after hours or on weekends?
- Do you want to ensure you have coverage if ever in between employers?
- Do you want to have comprehensive coverage, with full policy limits?

### **If you've answered yes to any of these questions, it's important that you consider having your own individual Professional Liability Insurance Policy.**

For any insurance-related questions, or if you'd like to discuss your individual practice circumstances, please give the CPA broker team a call at BMS at 1-855-318-6136 or email [cpa.insurance@bmsgroup.com](mailto:cpa.insurance@bmsgroup.com). We're here to help.

*Please note that the examples used in this article do not represent actual claims or insureds. The scenarios described above are included to provide examples of common circumstances, allegations, and outcomes for claims involving CPA members participating in the insurance program.*