

BRIEFING PAPER

To CCPA
 From BMS
 Subject Understanding Counsellor & Psychotherapist Liability Risk

1. BACKGROUND

1.1. CCPA LIABILITY INSURANCE

The CCPA program represents over 4,000 insured counsellors and psychotherapists across Canada who are protected with the CCPA Professional Liability insurance policy.

The CCPA professional liability insurance policy provides coverage for legal defence costs and monetary judgements associated with a professional liability complaint or lawsuit made against the insured member. Members can also access the policy to pay the costs of legal defence associated with:

- a complaint made to their regulatory body;
- criminal proceedings related to the insured’s professional services (if found not guilty);
- a coroner’s inquest, or any similar special inquests or commissions before which the Insured is called upon to appear.

The CCPA professional liability policy also provides additional coverage elements, including for claims related to:

- breach of copyright;
- breach of privacy;
- and others.

Coverage options are as follows:

	Option 1	Option 2	Student Option
Limits	\$3,000,000 per claim \$3,000,000 aggregate	\$5,000,000 per claim \$5,000,000 aggregate	\$2,000,000 per claim \$2,000,000 aggregate
a. Canadian Certified Counsellor (CCC)	\$109	\$163	N/A
b. Member in a Regulated Province	\$139	\$173	N/A
c. Has applied for CCC	\$139	\$173	N/A
d. Student Member ¹	N/A	N/A	\$89

¹ Note the policy provides coverage for services rendered during a practicum only.

1.2. UNDERSTANDING COUNSELLOR & PSYCHOTHERAPIST LIABILITY RISK

CCPA has approached BMS to respond to the following questions posed by members after watching the “Understanding Counsellor & Psychotherapist Liability Risk” presentation.

1. If you are out of the country and seeing clients online in your home province, are you covered?

The CCPA Professional Liability insurance policy applies to e-counselling services delivered in Canada and worldwide, and responds to claims brought forward and defended in Canada.

When delivering e-counselling services and in order for your insurance coverage to apply, you must abide by the professional regulations in your jurisdiction (where you are certified/registered and where you are located) and in the jurisdiction where your patient is located.

2. When a counsellor retires, how does the Extended Reporting Period Coverage (ERP) apply?

The CCPA Professional Liability policy automatically includes a 7 years extended reporting period (ERP) at no additional charge. This means that members who have discontinued practice do not need to continue purchasing professional liability insurance to stay protected. Instead, if a new claim were to be made against a non-practicing or retired counsellor within the first 7 years of their professional liability insurance policy expiry, the member could report the claim under their last active policy.

It's important to note the extended reporting period (sometimes called "tail coverage") applies only to new claims that come forward after you have discontinued practice and in respect to acts, errors and omissions committed prior to the expiry of your last active policy. If you intend to continue to deliver professional services or if you remain in active practice, you must maintain an active professional liability insurance policy and you cannot rely on ERP.

If members have purchased other insurance products such as Cyber Security & Privacy Liability, Employment Practices Liability, or others they should contact their BMS broker to discuss how retirement may affect these coverages.

3. Does the CCPA Professional Liability Policy extend to nature-based therapy or outdoor therapy?

The CCPA Professional Liability policy provides coverage for services that fall within your scope of practice as a counsellor or psychotherapist as defined by your regulatory body/association.

In addition to professional liability insurance, there may be other coverages that would be recommended to better protect yourself and your practice. We always suggest contacting BMS to discuss your practice circumstances with a broker.

4. What about insurance coverage if you are working in independent practice, business owners, or contractors?

The CCPA Professional Liability Insurance policy responds if you are being sued for injury or damages that have resulted from a negligent act, error, omission, or malpractice, that has arisen out of your professional capacity as a Counsellor or Psychotherapist.

Many CCPA members work in independent practice, are business owners or are contractors and in these instances, additional coverages may be recommended to provide protection against other risks.

Commercial General Liability (CGL) – often known as "slip and fall" insurance – protects you against claims arising from an injury or property damage that you, or your business, may cause to another person as a result of your operations and/or premises. As an independent contractor, you might accidentally cause damage to the property in which you are working and the property owner

may look to hold you responsible for compensating the costs of repairs (for instance, if you plug in a piece of equipment and a short causes an electrical fire).

CGL insurance is recommended for those in independent practice and contractors. Business CGL is recommended for business owners who own or operate clinics with other professional staff, beyond yourself.

Cyber Security & Privacy Liability- BMS recommends that Counsellors/Psychotherapists delivering services online and/or those responsible for maintaining and safeguarding confidential information purchase Cyber Security and Privacy Liability insurance to address their increased risk and exposure. It only takes one breach to have a significant impact on your reputation, career, and livelihood.

CCPA members have access to a specialized Cyber Security & Privacy Liability insurance policy that provides first and third-party coverage, as well as coverage for expert services in the case of an incident. The policy also includes coverage for costs involved with a regulatory proceeding relating to the violation of a Privacy Law, including penalties (where insurable), coverage for Business Interruption, Cyber Extortion incidents, and website media liability.

Cyber Security & Privacy Liability insurance is recommended for all practitioners and Business Cyber Security & Privacy Liability is recommended for business owners who own or operate clinics with other professional staff, beyond yourself.

Contents & Crime Insurance- This policy provides coverage to protect business contents from losses associated with property damage, such as a fire, and crime. This includes damage to any insured property including items usual to an office, including desks, chairs, filing cabinets and computers, as well as any stock and improvements and betterments. Crime coverage protects against financial loss due to dishonesty, fraud, or theft of money, securities or other property owned by the office/clinic.

Contents & Crime insurance is recommended for those in independent practice, business owners, and contractors, who have valuable property or contents to insure.

Clinic Professional Liability (PLI) – This policy protects your business assets in the event that your business name is included in a statement of claim or lawsuit. In the event of an incident, the patient will most likely name not only the treating therapist, but also your business as the larger provider of services.

Clinic PLI is recommended for those in independent practice that have a business name or business owners who own or operate clinics with other professional staff.

Employment Practices Liability (EPL) – This policy protects you and your business against allegations of employment practice violation, including wrongful termination, discrimination, workplace harassment, and other employment related allegations with Employment Practices Liability insurance.

EPL is recommended for business owners that employ or contract administrative and/ or professional staff, including independent contractors, volunteers, or students.