

COLLEGE OF RESPIRATORY THERAPISTS OF ONTARIO



Title: **Professional Liability Insurance Policy**

Number: **RG-INS-404**

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POLICY

Purpose

The Regulated Health Professions Act, 1991 (Health Professions Procedural Code) requires all practising regulated health professionals to carry professional liability insurance as follows:

Professional liability insurance

13.1 (1) No member of a College in Ontario shall engage in the practice of the health profession unless he or she is personally insured against professional liability under a professional liability insurance policy or belongs to a specified association that provides the member with personal protection against professional liability.

Insurance requirements

(2) A member mentioned in subsection (1) shall comply with the requirements respecting professional liability insurance or protection against professional liability specified by the College and prescribed in the regulations made under the health profession Act governing the member's health profession or set out in the by-laws.

Professional misconduct

(3) In addition to the grounds set out in subsection 51 (1), a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member fails to comply with subsection (1) or (2).

In addition, subsection 54(2) of Regulation 596/94 (Part VIII - Registration) requires that CRTO Members maintain professional liability insurance in the amount and in the form as required under the by-laws.

This document provides Members with the requirements and rationale for the CRTO's position on liability insurance. In addition, a number of questions are listed for Members' consideration when reviewing individual/employer's policies and determining if coverage is adequate.

Rationale

Liability insurance protects both Respiratory Therapists and the public they serve. Liability insurance enables a patient/client to have adequate financial compensation should harm occur as a result of an error, omission or negligent act, and liability insurance protects the Respiratory Therapist by providing legal and financial support should a patient/client make a claim against them. Members may obtain their liability insurance from any source, including their employer, the professional association, or directly from an insurance company.

Policy – Minimum Liability Coverage

Members engaged in the practice of respiratory therapy: The CRTO by-law requires that Members engaged in the practice of respiratory therapy as outlined in subsection 63 of the Registration Regulation¹ carry minimum liability insurance as follows:

- a) The minimum coverage shall be no less than \$2,000,000 per occurrence;
- b) The aggregate coverage shall be no less than \$4,000,000;
- c) The insurer must be licensed with the Financial Services Commission of Ontario; and
- d) The Member must be personally insured under the insurance policy.

At a minimum, coverage should also include conduct or omissions within the scope of practice of respiratory therapy as defined in section 3 of the *Respiratory Therapy Act*, the *Regulated Health Professions Act* and standards of practice of the profession. The insurance coverage should only have standard exclusion clauses that do not materially detract from comprehensive professional liability coverage, for example, criminal or deliberate acts.

Members registered with Inactive Certificates of Registration or Members who are not engaged in the practice of respiratory therapy: For Members registered with Inactive Certificates of Registration, or for Members who are not currently engaged in the practice of respiratory therapy as outlined in subsection 63 of the Registration Regulation (*see footnote*), the amount of coverage required by the College is set at “zero” providing that the Member has declared on his or her renewal form that he or she:

- Is requesting an exemption from the professional liability insurance requirement on the grounds that he/she is not currently engaged in the practice of respiratory therapy (either inactive or active non-practicing), and
- Has read and understood the professional liability insurance policy of the CRTO and will obtain insurance before practicing.

Examples of available coverage for Respiratory Therapists

- **Employer (hospital, home care company, educational program)**

If you are covered by your employer’s professional liability insurance plan in the amounts and coverage set out in the by-law (see above), then you are not obliged to obtain additional liability insurance coverage, although you may wish to. Members should note that it is not sufficient for the employer’s policy just to cover the employer or the facility. The *Health Professions Procedural Code* requires that Members practicing a health profession be “personally insured”. This means that you must ensure that your employer’s insurance policy covers not just the organization, but you as an individual as well. The policy does not have to list you individually by name but must specify that it covers the “employees” of the organization as “added insureds”.

¹ A Member registered with Inactive Certificates of Registration shall not:

- (a) engage in providing direct patient care;
- (b) use any title or designation listed in the Table to section 67;
- (c) supervise the practice of the profession; or
- (d) make any claim or representation to having any competence in the profession.

A Member who performs any respiratory therapy services, even on a part time or temporary basis, outside of the employing organization must obtain additional professional liability insurance coverage.

- **Canadian Society of Respiratory Therapists (CSRT)**
Details are available from the CSRT at www.csrt.com
- **Private insurance providers**
Consult with your insurance broker.

Individual considerations

The majority of Members will likely have insurance coverage of at least 2 million dollars with their employer. However, Members should determine if these amounts are sufficient according to their specific circumstances (see “Examples of available coverage for Respiratory Therapists – Employer” above). The College recommends that all Respiratory Therapists review their liability insurance coverage from time to time, whether it be an individual plan or one provided by employing agency, for paid or volunteer work. In determining if you have sufficient coverage you may wish to ask yourself the following:

- Does your plan cover reimbursement of legal or criminal defense expenses?
- Will your plan provide for the cost of legal representation in the event you are subpoenaed to appear as a witness?
- What type of coverage does your policy provide e.g., Malpractice, Errors & Omissions, and Legal Expenses?
- What is the liability aggregate limit, 4 million, 10 million?
- Do you have an "occurrence" type of policy (covers claims that occur after the policy has lapsed) or "claims made" policy (only covers you for claims made during the term of the policy)? If you have a “claims made” policy (which is the most common form of liability insurance today) you should ensure that you have enduring coverage (often called “tail insurance”) to protect against any claims made after you leave or the particular insurance policy ends.
- Is there a deductible, if so how much? It should not be more than \$1,000.00.
- What are the “exclusions” under the policy? Such exclusions should be standard provisions that do not materially detract from comprehensive professional liability coverage (for example, criminal or deliberate acts).
- If you are covered by an employee insurance plan, you should check your coverage and make sure you are an “additional insured” under the policy. You may wish request a letter from the employer confirming coverage. In addition, if you practise outside of your employment you will need to obtain additional insurance to cover those services.
- Finally, you may want to consider if you should purchase additional individual coverage through one of the professional associations.