

Overview

This fact sheet provides resources to members when obtaining professional liability insurance. It is important to note that the information below is intended to provide a summary of a member's requirements regarding professional liability insurance. Please directly reference any associated regulations and by-laws for a complete and accurate source of requirements and expectations.

What is Professional Liability Insurance?

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 because 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.

Requirements

General

Under the *Respiratory Therapy Act, 1991, (RTA)* and CRTO By-Law 3: Membership, section 8 Professional Liability Insurance, states that:

A member engaging in the practice of respiratory therapy shall carry professional liability insurance with the following characteristics:

- 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. if coverage is through a "claims made" policy, an extended reporting period provision of at least two (2) years;
- d. any deductible must be \$1,000.00 or less per occurrence;
- e. any exclusionary conditions and terms must be consistent with standard industry practice with respect to insurance of this type;
- f. the insurer must be licensed with the Financial Services Commission of Ontario or the Office of the Superintendent of Financial Institutions of Canada; and
- g. the member must be personally insured under the insurance policy.

Under CRTO By-Law 3: Membership, section 8.02 Sexual Abuse Therapy and Counselling Fund Endorsement, the professional coverage must include proof of a sexual abuse therapy and counselling fund endorsement that:



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- a) provides coverage for therapy and counselling for every person eligible for funding under subsection 85.7(4) of the *Code*; and
- b) provides coverage, in respect of each such eligible person, for the maximum amount of funding that may be provided for that person under the *Regulated Health Professions Act, 1991*, for therapy and counselling as a result of sexual abuse by the member.

Note: As the CROTO By-Law was recently revised and approved at the March 2022 Council Meeting, the new requirements will not be enforced until the next renewal cycle (January 2023).

Applicability

Professional liability insurance is a requirement that applies to all Respiratory Therapists, including those who are:

- Not working directly with patients
- Not working in a clinical role/environment
- Doing volunteer work
- Practicing on a temporary or casual basis.

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 the *Respiratory Therapy Act*¹, the amount of coverage required by the CROTO is set at “zero” providing that the member has declared at the time of their annual registration renewal that they:

- are requesting an exemption from the professional liability insurance requirement on the grounds that they are not currently engaged in the practice of respiratory therapy (either inactive or active non-practicing). For example, members who are not working (e.g., unemployed or are on a leave of absence) can declare that they are requesting an exemption from the professional liability insurance requirement.

Insurance Providers

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.

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.

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Examples of the 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 CRTO By-Law 3, then you are not obliged to obtain additional liability insurance coverage, although you may wish to do so. You are not obliged to obtain additional liability insurance coverage, as long as you are **personally insured** as stated in By-Law 3. The employer’s insurance policy does not have to list you individually by name. However, it is important to note that it is not sufficient for the employer’s policy just to cover the employer or the facility. You should be “personally insured”, meaning that you must ensure that your employer’s insurance policy covers not just the organization, but you as an individual as well. The employer’s insurance policy does not have to list you individually by name but must specify that it covers the “employees” of the organization as “added insureds”.

If you work in multiple practice sites, for example, you provide RT services at different hospitals or clinics, even on a part-time, temporary or voluntary basis, you will have to check that you have insurance coverage at each location. If not, you will have to obtain your own professional liability insurance coverage.

If your employer’s insurance does not meet the CRTO’s requirements, it is your responsibility to fulfill these requirements.

- **Canadian Society of Respiratory Therapists (CSRT)**

Details are available from the CSRT at www.csrt.com

- **Respiratory Therapy Society of Ontario (RTSO)**

Details are available from the RTSO at www.rtsso.ca

- **Private insurance providers**

Consult with your insurance broker.

Individual Considerations

The CRTO recommends that all Respiratory Therapists review their liability insurance coverage from time to time, whether it be an individual plan, or one provided by an 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 defence expenses, including professional misconduct matters?



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- 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, e.g., 4 million, 10 million?
- Do you have an "occurrence" type of policy (covers claims that occur after the policy has lapsed) or a "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 may wish to ensure that you have enduring coverage (often called "tail insurance") to protect against any claims made after you leave or the insurance policy ends.
- Is there a deductible, if so, how much? It cannot be more than \$1,000.00.
- What are the "exclusions" under the policy? Any exclusionary conditions and terms must be consistent with standard industry practice with respect to insurance of this type.
- If you are covered by an employee insurance plan, you must check your coverage and make sure you are an "additional insured" under the policy. You may wish to 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.

Does the CRTC Ask for Proof of Professional Liability Insurance?

Members are required to sign a declaration stating that they carry professional liability insurance as part of their annual registration renewal. In addition, the CRTC may request proof of professional liability insurance at any time. When the CRTC requires proof of coverage, it will notify the member of the specific type of proof it needs.

Resources

- [Am I Practising?](#)
- [Schedule of Fees](#)
- [Application for Inactive Certificate of Registration](#)
- [Application for Reinstatement](#)



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