

Understanding Liability related to the employment of Physician Assistants

Please note: this information should be used as a guideline only.

Introduction

PAs are unregulated health providers who perform clinical work including delegated controlled acts as assigned by a supervising physician who is ultimately responsible for patient care. PAs are an agent of both the physician who supervises them and their employer. There is a need to ensure adequate comprehensive general liability coverage for the protection of all parties involved, including the patient who is receiving care.

This document provides an overview of the liability issues relevant to employers and supervisors of Physician Assistant. Please note that this document does not constitute nor is it a substitute for legal, accounting or other professional advice. Employers and individuals who intend to take, or refrain from taking, any action based on information contained herein should first consult with qualified legal counsel or appropriate regulatory authorities.

Employer Insurance

All PA employers should have adequate comprehensive liability insurance in place for employed PAs. Most health care organizations will already have insurance coverage that includes its employees, and this coverage will typically include a PA employee. **Employers, including individual physicians or groups of physicians, should confirm coverage with their carriers prior to employing a PA.**

The Healthcare Insurance Reciprocal of Canada (HIROC), who is the healthcare liability insurance provider for many of Ontario's hospitals, CHCs and FHTs, confirmed that their general liability coverage extends to employed PAs. HIROC states that:

“All employees of HIROC subscribers are covered by HIROC. Therefore any PA, or individual working in a PA-like clinical role, who is an employee of a HIROC subscriber, will be covered by virtue of their employee status.”
(letter from HIROC dated February 7, 2007)

HIROC policy wording explicitly covers all employees of subscribers for liability arising from: bodily injury; advertising injury liability; property damage; healthcare professional liability; blood transfusion legal liability; contingent employer's

liability; environmental impairment liability; and errors and omissions liability. While limits of liability vary by subscriber, the minimum coverage is \$10 million for any one occurrence with no annual aggregate and no deductible. Defence costs up to the policy limits are also included.

Upon hire of the PA, employers should notify their insurance carrier of the new employee. **Employers are responsible for ensuring their PA will be covered under their general comprehensive liability policy.**

Physicians Supervising PAs

The relationship between the PA and any supervising physician is such that negligence on the part of the PA may expose the supervising physician to liability. Hence all physicians who supervise PAs should be registered with the College of Physicians and Surgeons of Ontario and hold Canadian Medical Protective Association or equivalent liability coverage. No additional liability insurance is required for the physician to supervise a PA.

The Canadian Medical Protective Association (CMPA) has indicated that it will consider clinical work a physician performs as part of supervising PAs the same as any other clinical activity and will consider providing assistance in the same manner if a claim arises.

Physician exposure to risk may be minimized by ensuring that they provide appropriate authorization and supervision of PA practice at all times. Guidelines are available to assist physicians with supervision of the PA, including the expected process for delegating controlled acts in accordance with the CPSO's policy on delegation. Physician supervisors are encouraged to follow these guidelines to minimize any potential liability exposure.

Individual Physician Assistants

Since it is expected that all employers will have adequate comprehensive liability insurance for all employees, including PAs, individual PAs are not required to obtain their own professional liability insurance.

However, Canadian certified PAs have the option of accessing professional liability coverage from the insurer coordinated by their national professional association, the Canadian Association of Physician Assistants (CAPA), should they wish to do so.