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The importance of professional liability insurance: Securing your career investments

Marie-Laurence Lambert and Karen Ng Wan

Have you ever hesitated to purchase professional liability insurance (PLI)? Have you ever wondered about its necessity? As two graduating student occupational therapists from the University of Ottawa about to enter the workforce, we found ourselves having such thoughts. In March 2018, during our fieldwork placement with the Canadian Association of Occupational Therapists (CAOT), we had the chance to interview Mr. Alexandre Ostola, a broker with BMS. He started our conversation by letting us know that BMS is an independent and majority employee-owned insurance brokerage that specializes in creating member insurance programs for associations; it works with more than 500,000 regulated professionals through more than 70 member-driven organizations across Canada and around the world. CAOT partnered with BMS over five years ago to create a comprehensive PLI program exclusively for CAOT members, CAOT PLI. This article highlights some key pieces of information the authors learned in the interview with Mr. Ostola regarding the benefits of having PLI and common misconceptions about insurance coverage for practitioners.

In 2018, occupational therapy is regulated in every province across Canada, though not in the three territories. Within regulated areas, occupational therapists are required to hold a specific amount of PLI. Some regulatory organizations also offer PLI; however, if a complaint is made to a regulatory organization against an occupational therapist, the regulatory organization's PLI might not provide full coverage that extends beyond damages to the complainant to any legal fees that the occupational therapist might incur. Conflict arises because the regulator's main objective is to protect the public.

Case example: an occupational therapist completed a driving assessment and recommended that the client's license be revoked. The client was not satisfied with the recommendation and felt the practitioner's decision was unfair. The client proceeded to lodge a complaint with the provincial regulatory organization. If the occupational therapist had only purchased PLI coverage through the regulatory organization, and it did not include coverage for legal expenses incurred by responding to a complaint to said organization, any settlement for the complainant would be covered but the cost of the occupational therapist's legal defense would not likely be covered.

Mr. Ostola mentioned that complaints to provincial regulatory bodies are increasing across many health care professions, and practitioners may be required to defend themselves in an investigation. Therefore, it is important to ensure that the PLI you purchase will protect you in the event of a complaint to your regulatory organization. CAOT PLI is available to protect CAOT members and includes coverage for legal expenses in such a situation.

We also learned that some occupational therapists have been offered PLI through their employers. Mr. Ostola mentioned that it's important in such cases to remember that the coverage is held in the employer's name and will likely protect its interests first, creating a number of considerations for the professional. For instance, typically an employer's insurance is only valid for services completed for the employer and will generally not cover services provided beyond the scope of this employment. In comparison, the CAOT PLI is valid for any of a member's professional services as long as the policyholder follows the profession's recognized code of ethics and practice guidelines and is working within her or his scope of practice as an occupational therapist. This could include volunteer work and other contexts in which members could provide occupational therapy recommendations (such as at a CarFit event), as well as training opportunities involving client interaction taking place in another country.

Mr. Ostola explained that CAOT members have two plans from which to choose. Option 1 provides \$6 million of PLI for \$59 annually, and Option 2 includes \$10 million PLI for \$97 annually. Occupational therapist assistants can purchase a \$6 million PLI policy for \$59 annually. As of October 1, 2017, members who purchase PLI through CAOT will benefit from an extended discovery and reporting period. This means that members retiring, discontinuing practice or on an extended leave of absence will be covered for any claims that may arise from their previous practice under the extended reporting period, which is up to 7 years. As noted previously, the plan includes comprehensive legal expense coverage for responding to complaints made to a regulatory organization. Members participating in the CAOT PLI program also have access to a hotline for pro bono (free of charge) legal advice from Gowlings. This service provides a free 30-minute phone consultation with a lawyer regarding legal issues relating to the policyholder's professional practice.

At the end of the interview, one of Mr. Ostola's statements remained in our minds—he had mentioned that PLI “provides peace of mind and secures career investments.” Indeed, he highlighted the amount of time and money one spends to obtain an occupational therapy degree and commence practice. These words resonated with us and caused us to realize how important it is to invest in a PLI plan to not only protect ourselves, but also our careers and professional reputations.

We hope this short article has illustrated some of the crucial factors to consider in order to make an informed decision regarding PLI. The following list provides examples of questions that may guide Canadian occupational therapists to make a sound decision about coverage:

- Do I envision working in a different Canadian province this year and will this plan be valid across the country?

- Am I involved in volunteer work as an occupational therapist and does this plan cover me in that role?
- Will I pursue any hands-on occupational therapy training out of the country and will this plan cover me if so?
- Does this plan cover my past practice decisions, and what is the extent of this coverage?
- Does this PLI plan cover:
 - o the costs of my defense against criminal charges?
 - o the costs of my defense against charges from a regulatory organization?
- What is the total amount of the coverage offered and is it enough in the context of my practice?

For any questions or for more details on CAOT PLI and all the insurance coverages available for your practice, visit the *Insurance for Your Practice* page on CAOT's website: <https://www.caot.ca/site/mbrp/insurance?nav=sidebar>

About the authors

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Annual General Meeting

You are invited to join the Annual General Meeting of the Canadian Association of Occupational Therapists.

Monday, March 25, 2019 12:00-1:00 pm ET

Participants can attend in person at various sites across Canada or via webinar. Please visit www.caot.ca (member login is required) or contact agm@caot.ca for details.



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Assemblée générale annuelle

L'Association canadienne des ergothérapeutes vous convie à participer à l'Assemblée générale annuelle.

Lundi 25 mars 2019 de 12h00 à 13h00 HE

Les participants peuvent assister à l'AGA en personne à divers endroits à travers le Canada ou par l'intermédiaire d'un webinaire en direct. Prière de visiter le www.caot.ca (en vous connectant en tant que membre) ou de communiquer à agm@caot.ca pour connaître tous les détails.