

## F. A. Q. for the CSRT Professional Liability Insurance Program

### What does Professional Liability insurance cover?

In general, Professional Liability (PL), also known as Errors & Omissions Liability or Malpractice Liability covers you against allegations brought by a third party (i.e., a patient) seeking damages resulting from a negligent or wrongful act, error, omission or malpractice arising from your profession as a Respiratory Therapist and within your scope of practice. The Professional Liability insurance policy available exclusively to CSRT members provides many additional forms of protection that are not often included in standard PL policies available in the general Canadian marketplace.

### Will the Professional Liability Policy Cover Volunteer Services?

Yes, your PL policy will cover RT services provided on a volunteer basis. You do not need to receive compensation in order for your PL policy to respond to protect you. Exposure to claims resulting from volunteer services is a major reason why RTs should purchase their own PL policy. Your employer will not protect you or defend you from claims of professional negligence resulting from your volunteer services if the volunteer services were provided outside of the scope of your employment.

#### *Examples of claims against Healthcare Professionals for Volunteer Services:*

Unfortunately, Canada is becoming much more litigious as we witness personal injury lawyers aggressively pursue damages on behalf of Canadians who suffer harm. There are instances in Canada where a healthcare professional was responding to help someone in an emergency situation in a volunteer capacity only to then be named in a lawsuit by the injured party whom the healthcare professional was assisting.

**For example:** RT volunteering at a youth sporting event responds to help a player that is suffering from a respiratory issue. The player sustains long-term damage as a result of the incident at the sporting event and sues the RT who responded to assist the injured player.

### Will the Good Samaritan Act protect me from being sued?

The intent of the Good Samaritan Act is to protect a “rescuer” who has voluntarily helped a victim in distress from being held liable for injuries or damages which may have been caused by the rescuer’s action in the absence of gross negligence. There are differences

between the Good Samaritan Acts in each province, specifically in Quebec where there is a duty to help someone in peril. While the Good Samaritan Act may operate to eliminate an RT's liability, the claim must still be defended. A lawyer should be retained and a statement of defence must be filed. Part of the defence advanced by the lawyer on behalf of the RT will include the provisions of protection under the Good Samaritan Act.

## **Will the CSRT PL policy protect me if a complaint is filed against me with my Regulatory Body?**

The chance of having someone file a formal complaint against you is greater than the chance of being sued. There are different regulatory bodies in each province; however, CSRT members should feel better knowing that their PL policy will provide access to lawyers who specialize in defending healthcare professionals being investigated by a regulatory body or authority due to a complaint. The CSRT's insurer will pay the legal defence costs immediately.

## **Will the CSRT Professional Liability policy protect me if I am charged with a criminal offence?**

The PL policy will reimburse CSRT members for the legal defence costs they incur in a criminal action related to their RT services if the criminal charges are dropped or if the member is found not guilty for the offence. An example of a criminal action would be a charge of physical abuse brought against you related to a patient you served.

## **Can the CSRT Professional Liability policy help me if I am dismissed for Professional Practice Misconduct?**

The CSRT PL policy was specifically customized to help members who had their employment terminated as a result of professional practice misconduct. This coverage is highly unique because PL does not typically provide insured professionals with access to lawyers in cases where you are pursuing legal action against your employer for dismissing you. CSRT is providing added protection to its members by enabling you to hire a lawyer to challenge your employer if they dismissed you for Professional Practice misconduct. You are unlikely to find another PL policy that provides this level of protection to RTs in Canada.

## Do I have to continue to pay for Professional Liability insurance while I am on Maternity or Paternity leave?

No, CSRT members planning to take maternity or paternity leave are automatically provided with continuous coverage for claims that may arise while on parental leave (for up to one year). Coverage is provided for incidents that may have occurred while you were practicing. PL coverage is automatically extended for one policy term at no cost. You must notify CSRT prior to going on Maternity/Paternity leave. CSRT will notify PROLINK that you are eligible for free PL coverage. You must notify CSRT prior to returning to practice to enable your insurer to re-instate PL coverage.

## Why do I need my own Professional Liability policy if I am employed?

There are 5 primary reasons why all RTs should have their own PL policy and NOT rely on potential protection from their employer:

1. Your employer will not defend or protect you if the regulatory authority for your province investigates a complaint against you by a member of the public;
2. If you are named personally in a lawsuit in addition to your employer then it will give you greater comfort to know that you have your own policy with a dedicated amount of coverage only to protect you;
3. Your employer's PL policy may be responding to protect multiple employed healthcare professionals. There is a chance that your employer's limits of insurance are exhausted if it is a high severity claim;
4. Volunteer services provided outside of your scope of employment will not be covered by your employer;
5. Any RT related services that you provide on a sub-contracted basis outside of your scope of employment will not be covered by your employer.

## How do I know if someone is claiming against me?

You will know if you are served with a statement of claim. It is a large legal document that is issued by a court. However, there are other circumstances where you should also contact PROLINK because it could constitute a claim under your PL policy.

### *The other circumstances include:*

1. A patient or their lawyer issues a verbal or written demand for damages (i.e., a letter or email is sent to you);
2. A patient or their lawyer makes threatening comments verbally or in writing indicating that they are seeking damages and/or may sue you.
3. You made a mistake in how you rendered your professional RT services and may have caused harm to a patient.

### **Who do I call if I receive a statement of claim?**

You call PROLINK's program manager for the CSRT PL Program, immediately upon receiving a statement of claim or a demand letter from a patient or their lawyer. **TF:** 1 800 663-6828 or **Email:** CSRT@prolink.insure

### **Does the PL policy cover me when I retire or cease practicing as a RT?**

No, the CSRT PL policy does not automatically cover you for future claims that may arise after you cease practicing. You must purchase an Extended Reporting Period policy within 12 months of ceasing practice. The extended reporting period coverage is only \$125 for six years of coverage after you retire. The extended reporting period policy only provides coverage for claims arising from your RT services provided up to the date you declared you were ceasing to practice. For example, if you report to CSRT that you are no longer practicing as of Jan. 2016 then you must contact PROLINK before Jan. 1, 2017 to purchase the six year extended reporting period policy. This policy will cover future claims arising from RT services you provided before Jan. 1, 2016.

### **Do I need any other type of insurance if I own or rent a clinic / office location?**

Yes, you should purchase Commercial General Liability insurance. The PL policy will not defend bodily injury or property damage claims brought against you related to your premises. For example, if a patient slips and falls in the winter when on your premises then a CGL policy will provide your legal defence.