

PROFESSIONAL LIABILITY INSURANCE REQUIRED OF ALL NSBEP REGISTRANTS

The Psychologists Act (2000) requires all NSBEP registrants to maintain professional liability insurance. To renew their registration with the Board, psychologists must provide proof that they hold sufficient liability coverage.

Some psychologists have written to the Board regarding NSBEP's position on insurance. In particular psychologists employed by health care institutions, school boards, or universities have questioned why they must have a personal liability policy.

NSBEP sought legal advice and information from insurers and subsequently determined that while this coverage might be sufficient in some circumstances such insurance may not cover all actions of an employee. For example, situations may arise in which the interests of a psychologist and those of his/her employer do not coincide, thus limiting the available coverage. This could lead to a situation that limits the recourse available to a member of the public who believes he/she has been harmed by the actions of a psychologist.

In January 2003 the Board took the position that the indemnification of federal employees by the Government of Canada might also be insufficient in some circumstances. The Board took the position that since this coverage was conditional on the federal employee's acting in "good faith" in the performance of his/her duties it did not fully meet the intent of the legislation to provide protection to the public.

In September 2006 the Correctional Services of Canada (CSC) appealed the Board's decision. They provided documentation to support their position that the indemnification provided to their employees was generally equivalent to the coverage provided by private liability insurance policies. It was noted that private policies generally contain a similar in "good faith" provision. Subsequently, the Board determined that the coverage provided by the Government of Canada through indemnification of employees is equivalent to the insurance required for psychologists under the Psychologists Act (2000). Thus, as long as a CSC employee does not engage in any practice outside of the government workplace setting, federal indemnification would provide sufficient protection to the public.

Based on this, NSBEP agreed to exempt CSC employees, working only within the confines of CSC, from the requirement of also purchasing private insurance if CSC agreed to monitor his/her work status.

To fulfill this obligation, CSC requires its psychologists in the province of Nova Scotia to complete a yearly declaration stating whether or not they are engaged or intend to engage in any form of psychological practice outside of CSC. CSC also ensures psychologists are aware that private insurance in addition to CSC coverage is required by NSBEP in order to engage in any psychological practice outside the bounds of CSC. CSC provides to NSBEP a copy of the yearly

declaration completed by each CSC psychologist in Nova Scotia. As such, CSC psychologists are not required to submit proof of coverage unless they practice or intend to practice outside of CSC. Other Government of Canada employees however, must submit proof of liability insurance separate from that provided by an employer.

NSBEP is prepared to negotiate other such arrangements with employers of psychologists if it can be shown that the workplace coverage is equivalent to the insurance required for psychologists under the Psychologists Act (2000). However the onus is on the employer to adequately demonstrate to the NSBEP that coverage is equivalent. The NSBEP is not prepared to enter into negotiations with individual psychologists. Approval of an exemption involves negotiation between NSBEP and the employer to ensure equivalency of coverage and to obtain the employer's agreement to monitor the exemption program. This involves the employer annually reminding all psychologists in their employee that they must obtain private insurance if they plan to engage in any form of psychological practice, for any length of time, outside of the confines of their employment setting. This also involves the employer obtaining a yearly declaration from all psychologists who are claiming the exemption and forwarding the declaration to NSBEP. This declaration must be signed and witnessed by the psychologist and must attest to the fact that the psychologist is not and does not plan to engage in any form of practice outside of the confines of the employment setting.

NSBEP has also had enquires from psychologists who have recently retired, moved to another country, or taken a position where they are no longer employed as a psychologist. These psychologists ask why they must continue to maintain professional liability insurance. This insurance is necessary to cover individuals' prior actions, taken in the course of their previous duties as psychologists in Nova Scotia prior to their retirement, out-of-country move, or change of profession. Please note that insurers typically provide coverage for those in these three categories at a reduced rate.

Psychologists should be aware of the personal risk that they run, should they allow their insurance to lapse. Even if a psychologist is no longer registered and/or practicing, a member of the public can take action against him/her with respect to activities that took place when he/she was still registered.

The Board recognizes that maintaining private liability insurance places a financial burden on psychologists working in mental health institutions and school boards. However, the Act is predicated upon the primary interest of protecting the public and as such NSBEP must ensure psychologists in Nova Scotia have sufficient coverage.