

Brennan & Associates
Risk Management & Insurance Services, Inc.
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Health Care Insurance Update



NEWS FOCUSED ON RISK MANAGEMENT AND INSURANCE SOLUTIONS FOR HEALTH CARE FACILITIES

This Month: E&O Professional Liability Insurance

Dear Healthcare Industry Professional,

In the highly litigious environment we all operate within, it is essential that you protect yourself and your institution from legal action - frivolous or not.

This issue of "Health Care Insurance Update" focuses on Professional & General Liability for Nursing Homes and Long Term Care facilities. Please read on to find articles that provide a clear definition of Professional Liability Insurance, explain what it covers and why you need it. You will also find out why the *Claims Paid*[™] approach is different. It's a unique service for which we proudly represent Continuing Care Risk Retention Group, Inc. (CCRRG) in many parts of the country.

In short, this information could help protect your facility. If you have a question you would like answered or a comment, please email us at halr50@cox.net.

Regards,

Hal Roach

[Hal Roach](#)



What Is Professional Liability Insurance?

Professional liability insurance, also called Professional Indemnity Insurance, protects professional practitioners such as architects, lawyers, physicians, and accountants against potential negligence claims made by their patients/clients.

Professional liability insurance may take on different names depending on the profession. For

example, professional liability insurance in reference to the medical profession may be called Medical Malpractice. Notaries public may take out errors and omissions insurance (E&O). Other potential E&O policyholders include, for example, real estate brokers, home inspectors, appraisers, and website developers. There are also specific E&O policies for technology companies, such as software developers, technology consultants and other creators of technology. This coverage



Do I Need Professional Liability Insurance?



Professionals that operate their own businesses need professional liability insurance in addition to an in-home business or business owners policy. This protects them against financial losses from lawsuits filed against them by their clients.

Professionals are expected to have extensive technical knowledge or training in their particular area of expertise. They are also expected to perform the services for which they were hired, according to the standards of conduct in their profession. If they fail to use the degree of skill expected of them, they can be held responsible in a court of law for any harm they cause to another

focuses on the failure to perform, financial loss and error or omission of the products or services sold. Additional coverage for breach of warranty, intellectual property, personal injury, security and cost of contract can be added.

The primary reason for professional liability coverage is that a typical general liability insurance policy will only respond to a bodily injury, property damage, personal injury or advertising injury claim.

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Why Professional & General Liability & What Does It Cover?



Simply put, these coverages are needed by a long term healthcare facility for the protection of a facility and its employee's primarily against the possibility of litigation by the public, their residents, or the resident's families. The general liability provides coverage for litigation by the public or visitors. The professional liability provides coverage for litigation involving your residents.

There are three main policy forms. They are occurrence, claims-made, and, claims-paid. The cost or premium will vary considerably from policy to policy, based on factors like:

- Rating factor
- Geographical location
- Claim history
- Survey history
- Limits of liability
- Deductibles/self insured retention

Health Care Insurance Update will address their similarities and differences from a coverage perspective, in this, and continuing issues.



Brennan & Associates is a leading, regional insurance brokerage, serving the insurance and risk management needs of long term healthcare industry providers.

During fifty years offering specialized services, we have developed strong relationships with insurance

person or business.

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Claims Paid™ vs. Claims Made

What Is the Difference in Coverage?

Having collected additional *reserve* money, a *claims-made* carrier charges an annual premium for all claims that are expected to be reported. For this reason, once a member reports a claim, and hence the *claim* is *made*, the carrier may now resolve it using the funds already collected. Once the carrier assumes liability for a claim the member may leave and secure retroactive coverage from a new carrier.



The *Claims Paid*™ approach is different. Since Continuing Care Risk Retention Group, Inc. (CCRRG) does not collect reserves, the Members pay less on average from year to year. In return for typically lower premium costs, the Member agrees either to remain with CCRRG until any pending claim is resolved or purchases an extended reporting period (ERP) coverage or Member assumes outstanding balance of any claim at time of termination of coverage and membership.

CCRRG Claims Paid™ Insuring Agreement Definition:

We will "Pay" amounts within policy limits for "Damages" because of "Bodily Injury" or "Property Damage" to which this insurance applies, on behalf of a "Member" who incurs a legally binding obligation to "Pay" that has been determined by a court, arbitrator or other administrative tribunal during the time they were a CCRRG "Member".

A "Claim" "Occurring" during the "Policy Period" and reported during "Policy Period" for which the company will "Pay" such amounts;

1. When it becomes a legally binding obligation for the "Member" during the time the "Claim" is asserted during the "Policy Period"; and
2. While the "Member" remains a "Member" at such time as the "Member" becomes legally obligated to "Pay" the "Claim".

CCRRG and Magnolia LTC Management Services, Inc. has been granted exclusive use of the patent pending Claims Paid™ PL/GL form by Cooperative of American Physicians (CAP) for all institutional long term care facilities in the U.S.

carriers, program administrators, and surplus lines brokers. These relationships have led to competitive pricing for the coverage you need, and the ability to get it right for you.

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Your Occurrence Form Policy



An occurrence form policy was the most common type of policy used by carriers providing professional malpractice, until the early 2000's. The coverage is there for a covered loss, as long there was a policy in force. This is regardless of when the litigation is brought. Because of the statute of limitations and the delays in the notice/discovery of the loss carriers; the dollars spent on defending and paying the awards became unacceptable. A better way had to be used to more truly price the policy. The claims-made policy was the insurance industry's answer.

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