

PHARMACISTS' INDIVIDUAL PROFESSIONAL LIABILITY (MALPRACTICE) INSURANCE REPORTING GUIDELINES

Ontario Pharmacists Association and Northbridge Canada have jointly produced the following information which will serve as a guide to reporting errors, omissions or negligent acts, as required by the terms and conditions of the Northbridge policy, and to prevent denial of any subsequent claim which might arise. Northbridge Canada practices a very pro-active approach to claims handling. It is this pro-active approach that will protect the members from potentially large claims by flagging them at an early stage and mitigating the loss.

For reference, we draw your attention to the following section of your Northbridge Canada policy, which speaks to the conditions for which a claim is to be reported. Part VI CLAIMS a. Notice of Claims and b. Notice of Potential Claims reads in part:

"If during the policy period the INSURED becomes aware of a circumstance which could reasonably give rise to a CLAIM, the INSURED shall give written notice thereof to Northbridge Canada as soon as practicable and prior to the date of the termination of the policy. Any such CLAIM received by the INSURED resulting from such circumstances shall be treated as a CLAIM made during the policy period in which such notice was given"

The policy wording is common for any professional liability policy to have the insured report any error, omission or negligent act that **could** give rise to a claim or of which the insured **has** knowledge.

To simplify, any incident that results from an error, omission or negligent act in the rendering of professional services that could give rise to a claim and of which you have knowledge is to be reported. Common sense of the Pharmacist should be used in examining any occurrence. It is the responsibility of the Pharmacist to ensure administrative errors are corrected and proper follow-up with the client done, to ensure physical harm has not occurred. In other words, if a patient has not taken any medication that has been deemed to be administered in error, there is no loss or damage that could lead to a claim.*

Please note that it is a condition of the policy that you **do not admit liability**, or offer to make any settlement, without the knowledge and written consent of the insurer Northbridge.

***It is advisable however to err on the side of caution and report any Incidents that the Pharmacist feels might be a potential problem or may give rise to a claim or complaint.**

TRIBUNAL LEGAL EXPENSE COVERAGE - PART VIII - EFFECTIVE DECEMBER 31, 2017

In the event a member comes under investigation by or has been requested to appear before a legally constituted tribunal or committee formed by a provincial regulatory college or society regulating the member's professional services, the member has the right to choose one of the following defence and settlement options:

Insurer's Duty To Defend (Pay on Behalf of)

The insurer will appoint a lawyer on the member's behalf who is chosen from a list of their preferred panel counsel. If this option is chosen, Northbridge will assign a firm from the list and pay the law firm directly. If the member chooses this option, the member must give written notice of any such investigation or notice to appear at a regulatory tribunal as soon as practicable **but no more than 30 days after the end of the policy period**

OR

Insured's Duty to Pay (Reimbursement)

The member may appoint legal counsel of their choice to represent them in these proceedings and then seek reimbursement from the insurer, however reimbursement is limited to the hourly rate the insurer has set for their panel counsel, which is \$225.00. The member would be responsible for the balance. If the member chooses this option, they must provide written notice to the insurer of such investigation or request to appear **within 180 days of the member becoming aware of such investigation or notice to appear**. The policy further requires that any fees for reimbursement must be submitted **within 180 days following the final adjudication of any such investigation or tribunal proceeding**

Failure to report within the required time may lead to a denial of coverage. It is recommended that you promptly notify HUB of any complaint or notice you receive from the OCP to avoid any late reporting issues. Along with the completed incident reporting form, please include with your notice any documents you have received from the OCP or other society.

The following are the most frequently asked questions with respect to these reporting procedures:

Q - What does the insurer do with the reporting notice upon receipt?

A - The claims examiner reviews and acknowledges the reporting notice and will be kept on file in the event a claim should arise.

Q - What about the confidentiality of patient information?

A - Northbridge Canada and the broker HUB International HKMB, have a fiduciary relationship with their insureds not to disclose confidential information. In addition, Northbridge Canada has had its legal counsel review the Registered Health Professions Act, which governs health professionals, The Privacy Act and the Personal Information Protection and Electronic Documents Act. Nothing in these Acts specifically prohibits the release of this information to an insurance, insurance management or insurance related company for investigation purposes.

Q - If I report an error, omission or a negligent act that could give rise to a claim, how will this affect my personal record or ultimately my premium?



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A - *A condition of any professional liability policy is to report any known error, omission or negligent act that could give rise to a claim. However, unless an actual claim is reported by a plaintiff and an actual amount is paid to the plaintiff, it will not likely affect the personal record of the pharmacist or the individual premium paid.*

Q - **If I neglect to fully counsel a patient or omit any information or details with respect to the product, do I need to report to the insurer?**

A - *Using the common sense approach, in determining if this error or omission should be reported to Northbridge Canada, the pharmacist should decide whether or not this error or omission is likely to result in a complaint or an action based on the product, the patient, and the severity of the failure to advise.*

Should you have any questions, please contact:

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