

COVID-19: INSURANCE COVERAGE POSITION STATEMENT

Dear Member,

We continue to work collaboratively with our various stakeholders and partners including your Association to keep you informed during this evolving and unprecedented time.

This letter addresses specific aspects of policies purchased by CSHP members, including Professional Liability and Commercial General Liability.

We are monitoring the ongoing government assistance with respect to small businesses and we are distributing risk management material that will be shared through your Association. Below, we have included links to key articles which you may find to be of further assistance. Please also continue to monitor your Association's and provincial College's website for pertinent information.

The contents of this letter are for informational purposes only and do not amount to insurance or legal advice in relation to any particular claim. Our intention is to provide you with an overview of the available coverage based on our review of the policy terms and conditions. The COVID-19 Pandemic is an unprecedented situation and insurance coverage is fact dependant. As the broker, BMS Canada Risk Services Ltd. does not adjudicate claims. Each claim is considered on its own unique facts by the Insurer. Please continue to report all potential or actual claims.

Professional Liability

Professional Liability insurance (PLI) protects you against liability or allegations of liability for injury or damages that have resulted from a negligent act, error, omission, or malpractice that has arisen out of your professional capacity as a pharmacist, pharmacy technician, pharmacy student or resident or if a complaint is made against you to your College. PLI protects pharmacists, pharmacy technicians, pharmacy students and residents by ensuring that your legal defence is coordinated and paid for if a claim is made against you. Your PLI also covers the cost of patient compensation, or damages.

A Claim means any demand upon the Insured for damages or services alleging liability of the Insured as the result of any "injury", act, error or omission. "Injury" includes bodily injury, sickness, or disease.

Upon review of the CSHP PLI Wording, there are no specific exclusions relating to transmission of a virus or disease from the insured during delivery of their professional services. However negligence on behalf of the Insured must be proven for a claim to be successful. There is also standard exclusions relating to claims arising out of, or attributable to any dishonest, fraudulent or criminal act by an insured.

If you are a retired professional with no active professional liability insurance in place and considering returning to work, you must purchase a professional liability insurance policy before doing so. Any extended reporting period (tail) coverage you may have had on a previous policy does not apply upon your return to work.

Commercial General Liability

If you have purchased Commercial General Liability (CGL) coverage through the CSHP program, this section applies to you. CGL is designed to protect against third party “bodily injury” and “property damage” claims. The definition of “bodily injury” includes disease, and could in limited circumstances trigger coverage in relation to COVID-19.

Insurers note that in order for the CGL to respond in present circumstances, there would have to be allegations of bodily injury, property damage or personal injury claimed by a third party arising from your handling of the COVID-19 pandemic. Additionally, the insured would need to be negligent and the loss must occur during the policy period and in the Coverage Territory (Canada).

Pollution is a common exclusion across CGL policies. It is anticipated that this exclusion will be contested and applied to limit opportunities for coverage in relation to COVID-19.

Claims Reporting

Every claim is unique and will be assessed on its own merit by the Insurer. Please continue to report all potential or actual claims. The content of this letter is for informational purposes only and does not constitute insurance or legal advice in relation to any particular claim.

Claims Reporting details can be found on your individual Certificate of Insurance as well as at www.cshp.bmsgroup.com.

If you have any questions, or to obtain a copy of the policy wording(s), please contact BMS at cshp.insurance@bmsgroup.com.

Insurers for CSHP Insurance Program Policies:

Professional Liability: W.R. Berkley (Lloyd’s)

Commercial General Liability: W.R. Berkley (Lloyd’s)

Additional Resources

[Virtual Health Care Services – Ensuring Continuity of Care](#)

[First Response – The Law Governing States of Emergency in Canada](#)

[Most Businesses not covered for Potential Interruptions from Coronavirus, insurance industry warns - *Globe and Mail*](#)

[Coronavirus and small business: keeping you and your employees safe - *CFIB*](#)

[COVID-19 | Pandemic Preparedness for Business - *Canadian Chamber of Commerce*](#)

[Coronavirus disease \(COVID-19\): Resources for Canadian businesses – *Government of Canada*](#)

We are committed to monitoring developments as the COVID-19 pandemic evolves and we will continue to provide updates, including from insurers as they become available. We will also share additional resources with you.

Thank you for your continued participation in the CSHP Liability Insurance Program.

Brian Gomes

President & CEO, BMS Canada Risk Services Ltd.

Disclaimer: this document was made available on March 19, 2020 as a response to the COVID-19 outbreak in Canada. The circumstances surrounding COVID-19 continue to change rapidly and BMS Canada Risk Services Ltd. (BMS Group) wanted to provide members access to information relating to Liability Insurance Coverages that they may have purchased through their respective Professional Association Program. As the environment and realities related to COVID-19 are still in their infancy and continue to change rapidly, this information is provided merely as a guide and must be interpreted reflecting on when the information was delivered recognizing that the expert advice may change as the situation develops.