



NEWFOUNDLAND & LABRADOR
PHARMACY BOARD

Professional Liability Insurance: Protect the Public and Protect your Practice

Kelda Newport, Director of Quality & Pharmacy Licensing

Natalie Payne, General Counsel/Director of Complaints and Discipline

Agenda

1 Importance of PLI to both you and your patients.

2 The Code of Ethics and how it relates to PLI.

3 Recently implemented changes to the PLI Requirements for Registration.

4 Importance of maintaining an up-to-date record of your PLI with NLPB.



Disclaimers

The information presented in this webinar is not legal advice.

If you have questions about your specific PLI policy and its coverage, please contact your insurer or NLPB.

If you have questions about a medication error you have made or if a patient has been harmed by you, please contact your legal counsel.



Why is PLI so Important?

- Even diligent and skilled practitioners make mistakes.
- Most mistakes are caught before harm occurs, but sometimes the worst-case scenario does happen.

Mistakes resulting in harm



Medication errors



Patient Counselling errors



When a Mistake Results in Harm

Potential Impact on Patient



Medical Expenses



Lost wages if they miss work or are unable to work



Pain and suffering



Inability to engage in household duties



Legal Fees



Expenses for family if patient dies



When a Mistake Results in Harm

Damages

The financial compensation to cover patient costs

Damages may be determined by:

- a court
- a legal agreement

Those required to pay damages may include:

- Practitioner
- Employer/Business
- Patient

Potential Damages



Medical Expenses

- e.g. 20-year-old patient requires full-time care for rest of their life
- e.g. 65-year-old patient requires rehabilitation after a stroke



Lost wages if they miss work or are unable to work

- e.g. A professional athlete unable to work in their previous career.



Pain and suffering

- General damages can be in the hundreds of thousands on top of other expenses.



Inability to engage in household duties

- A patient who is no longer able to shovel snow or mow the lawn



Legal Fees



Expenses for family if patient dies

- Funeral costs



When a Mistake Results in Harm

Damages: What if I Can't Pay?

Who will cover the cost



Case Example: Taylor v. Hogan

- 1998 case from Newfoundland and Labrador
 - Punctured bowel in diagnostic laparoscopy; patient later had stroke
 - The doctor's error created a risk of stroke and was found to be a contributing cause of the stroke.

Impact on patient

2 years of intensive therapy

Only partial recovery of physical function and speech. Lost use in dominant hand.

Difficulty at work (in sports)

Exhaustion left patient with little social life, vulnerabilities

Damages awarded for

Loss of earning capacity

Loss of household services

Loss of capacity of interdependent relationships

General damages

Loss of future earning capacity and pension

Disability benefits



Case Example: Briffet v. Gander and District Hospital

- 1996 case from Newfoundland and Labrador
 - ER doctors misdiagnosed a heart attack
 - Doctors' negligence caused the heart attack
 - Patient could no longer work in his chosen profession

Impact on patient

Thin Skull Rule:

Patient had a pre-existing condition that made the harm caused by the doctors' negligence more severe.

You take your victim as you find them.

The same error may cause different harms to different patients, but the negligent practitioner is still responsible for damages in either case.

Damages awarded for

Lost income and earning capacity

General damages

Out-of-pocket expenses



Why is PLI so Important?

- PLI is in place to cover the cost of damages in the event that harm occurs to a patient
- Appropriate policies cover damages awarded to your patient and your own legal fees
- Insurance companies usually provide their own lawyers so you may only need to have limited involvement in the legal process.



PLI and the Code of Ethics



What is the Code of Ethics?

Ethics are the foundation for professional behaviour, actions, and attitudes.

The Code of Ethics reflects what the pharmacy profession stands for.

Consistent ethical behaviour creates a positive image of the individual that extends to the image of the profession.

PLI and the Code of Ethics



Pharmacy is about patient-centred care

Patients need to have confidence in their practitioner and feel that they are cared for and protected no matter what happens.





Code of Ethics: Ethical Principals

ETHICAL PRINCIPAL 1:

Registrants hold the health and safety of each patient to be of primary consideration.

- 1.1 Registrants place the health and well-being of their patients at the centre of their professional practice.
- 1.6 Registrants advocate for, and protect the well being of each patient, especially those who are vulnerable or disenfranchised.
- 1.7 Registrants take all reasonable steps to prevent harm to patients.



Code of Ethics: Ethical Principals

ETHICAL PRINCIPAL 2:

Registrants maintain a professional relationship with each patient.

- 2.1 Registrants respect the professional relationship with the patient, and act with honesty, integrity, and compassion in order to foster the patient's trust and confidence in the registrant.
- 2.2 Registrants treat all those they serve with courtesy and respect.



Code of Ethics: Ethical Principals

ETHICAL PRINCIPAL 6:

Registrants observe the law, preserve high professional standards and uphold the dignity and honour of the profession.

- 6.1 Registrants obey the laws, regulations standards and policies of the profession, both in letter and in spirit.
- 6.2 Registrants embrace the ethical principles of the profession, and do not engage in activity that will undermine public trust in, or bring discredit to, the profession.
- 6.3 Registrants do not practice under conditions which compromise their freedom to exercise professional judgment, or which cause a deterioration of the quality of care to their patients.

PLI Requirements

Pharmacy Act

Regulations

Bylaws

Code of Ethics

Standards &
Guidelines

Interpretation
Guides &
Policies

PLI Requirements
for Registration

nlpb.ca/registration-and-licensing/registration-requirements



Pharmacy Act, 2012

Sections 14, 15, and 17

- s. 14 - Registration of pharmacists
- s. 15 - Registration of interns
- s. 17 - Registration of pharmacy technicians



The board shall/may register an applicant as a pharmacist/intern/pharmacy technicians where he or she

- provides proof that he or she has obtained professional liability insurance coverage in a form and amount satisfactory to the board.

Pharmacy Regulations, 2014

Sections 5, 8, and 9

- s. 5 - Registration of pharmacy students
- s. 8 - Registration renewal - pharmacists
- s. 9 - Registration renewal - pharmacy technicians



In addition to the requirements in [the Act], a person applying to be registered/renew his or her registration as a pharmacy student /pharmacist/pharmacy technician shall

- provide proof that he or she has obtained/continues to have professional liability insurance coverage in a form and amount satisfactory to the board.

NLPB Bylaws

Section 85 (d)



Professional Misconduct Defined

The term professional misconduct for the purposes of considering an allegation or a complaint and the institution of disciplinary proceedings includes but is not limited to including:

- practicing pharmacy while not covered by a policy of professional liability insurance acceptable to the board.

Coverage Requirements

Personal insurance –names the registered pharmacy professional personally and covers them for all aspects of their practice in all locations in the province in which that practice occurs.

Minimum coverage of \$2,000,000 per claim/occurrence and \$4,000,000 annual aggregate.

Can be a “claims made” or “occurrence” policy (“claims made” required a three-year extended reporting provision).

“Claims made” policies cannot include a retroactive date, must include full prior acts protection.

The annual certificate must confirm that the insurance meets the criteria set by NLPB.

Legal defence payments must not erode the minimum limit of coverage.

Canadian Forces pharmacists are exempt on certain conditions.

PLI Requirements for Registration defines what constitutes “coverage in a form and amount satisfactory to the board.”

PLI Requirements for Registration



Coverage Requirements

Policy must include a clause to the effect that the insurer will notify NLPB if the policy is cancelled, expires, or ceases to meet the criteria set by NLPB.

Policy must include a clause to the effect that the policy continues in force in conformity with the criteria set by the board until NLPB receives the notice.

Must provide PIC with a copy of coverage certificate within 30 days of the policy start/renewal date to be kept on file at the pharmacy at which they practice.

If practicing as relief, they must present a copy of their annual coverage certificate to the PIC at any pharmacy where they are working.

PICs must provide a declaration during the annual pharmacy licence renewal stating they have confirmed that all pharmacy staff have valid PLI policies and that copies are kept on file at the pharmacy (implemented for 2024 renewals).

PLI Requirements for Registration defines what constitutes “coverage in a form and amount satisfactory to the board.”

PLI Requirements for Registration

Recently Implemented Updates

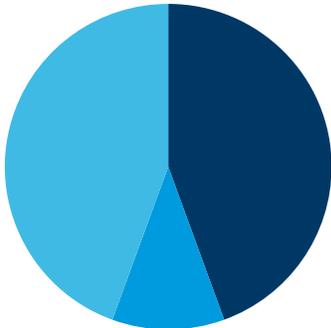


2022 Professional Liability Insurance Audit

1228 Registered Pharmacy Professionals Audited



Reasons for non-compliance



9 Registered Pharmacy Professionals Did Not Meet Requirements

- 4 Gaps in coverage
- 1 Gap in coverage & inadequate insurance coverage
- 4 Improper documentation submitted

Why does NLPB conduct an annual PLI audit?

- To mitigate risk to the public.
- To assure the public that pharmacy professionals are upholding their ethical and legal obligations.

Why is documentation so important?

- NLPB relies on the information recorded in your profile to reconcile PLI information.
- Inaccurate information requires NLPB to use significantly more human resources to conduct PLI audits.

PLI Documentation

Upon policy renewal, pharmacy professionals are required to upload an annual certificate of coverage and update policy information in the NLPB Registrant Portal.



PLI Policy Renewal: Continued Coverage

Ensure continued coverage that meets requirements:



Set a recurring reminder in your calendar for one month before your policy expires to ensure you renew on time.

- Do not rely solely on receiving a reminder to renew from your insurer, PANL, or NLPB.



PICs: add PLI status to your staff meeting standing agenda.



Do not assume your employer will renew your PLI for you. If your employer changes, check with your new employer to ensure PLI is in place.



Provide your insurer with a copy of the NLPB PLI Requirements for Registration Interpretation Guide to check that your policy meets NLPB requirements.



PLI Coverage is YOUR Responsibility

PLI Policy Renewal: Documentation

Ensure documentation is up-to-date and accurate:



Set a recurring reminder in your calendar for your policy expiration date to update PLI in NLPB Registrant Portal.



PICs: check monthly that an up-to-date policy is on file at the pharmacy for all staff.



Refer to the NLPB Registrant Portal User Guide - Adding/Updating PLI for instructions on updating your PLI in the NLPB Registrant Portal.



PLI Documentation is YOUR Responsibility

What Do You Do If Your Policy Lapses?

Drop what you are doing and stop working until you have an active policy in place.

Contact your insurance provider immediately.

Make sure that when you renew your policy it is backdated to the date your old policy lapsed.

If you cannot backdate your policy, or you are aware of a problem that occurred while you were not covered, contact NLPB, your employer, and your legal counsel immediately.



Final Thoughts

Why you have Professional Liability Insurance:

To protect your patients

Ethical responsibilities

To protect yourself, your business, your personal assets

It's the law

What do you need to do today?

- Ensure your policy meets requirements
- Check expiry date and put measures in place to ensure you do not miss renewal.





QUESTIONS