

## **Professional Liability Insurance for Freelance Medical Writers**

By Tracey Fine

Nationwide, freelance medical writers are concerned about whether they need professional liability insurance. This heightened awareness of liability issues has arisen because many clients now require freelancers to carry \$1 million of professional liability insurance. AMWA Northwest Chapter member Arkady Mak, PhD, MD undertook an investigation of professional liability insurance for medical writers and presented the results at the AMWA spring board meeting in Alexandria, VA in March 2003.

Dr. Mak's report was based on interviews with several insurance industry representatives, including the insurance agency that developed and manages an insurance program for the National Newspaper Association and that administers the National Federation of Press Women's (NFPW) liability insurance programs; commercial insurance brokers that represent several insurance companies; independent agencies that primarily do commercial work with several insurance companies; and insurance agents whose primary work is personal liability coverage (e.g., homeowner's and auto insurance). Dr. Mak also contacted the NFPW and the National Writers Union (NWU) about the liability policies available to their members.

### **Professional vs. Business Insurance**

Many writers are unfamiliar with the differences between professional liability insurance and general business liability insurance. Professional liability insurance covers the accuracy of your work (e.g., the data are incorrectly reported and your client sues you), while general business insurance covers bodily injury and property damage at your business much as homeowner's insurance does. If a client inquires about your insurance coverage, find out what type they require. Some clients only require contractors to carry general business liability insurance, which can be purchased for about \$100 per year from the same types of insurance companies that sell homeowner's policies.

### **A Fairly Low Exposure to Liability Claims...**

Insurance actuaries do not have a "medical writing" category. Of the insurance agents Dr. Mak interviewed, those with extensive experience felt that medical writing has a fairly low exposure to liability claims, because our clients generally accept ultimate

NThrenor 43smny wureelnce s tmayhat aned fiability insurance cnd insustry Tj 335775 0 TD 0 Tc -0.1275  
Ddmiroxmate y r\$250.2

similar enough (that is, if the exposure of individual members to liability claims is fairly uniform throughout the association), then insurance companies' actuarial analysis would plug medical writers into an appropriate pre-existing professional liability program or a new liability program could be established. To establish a new liability program an insurance company would consider the number of members insured, the estimated exposure of those members to liability claims, and whether those members have been named in lawsuits during the past few years. For example, one insurance company Dr. Mak interviewed required their premium to be collected as a part of membership dues, thus ensuring the minimum enrollment and a group with mixed levels of liability exposure. (Obviously, self-selected enrollment attracts those members who are especially in need of coverage, such as those who have claims made against them or who participate in highly exposed work.) For 2500 enrolled members, the insurance company could provide coverage of \$1,000,000 for an annual premium of \$400.

### **AMWA advised not to provide insurance**

The cost of setting up a new program is high: \$20,000 to \$30,000, because the new program must be filed in every state for a national association such as AMWA.

According to one insurance representative, the liability of the association itself would not increase. However, AMWA's attorneys disagree. They believe that AMWA could be named as a defendant in a lawsuit brought by an insured member who felt the insurance was a misrepresented benefit of membership.

At the spring board meeting, the Executive Committee reported that AMWA's legal counsel has explicitly recommended that AMWA not become involved in providing insurance of any type.

### **Liability Policies Through Other Associations**

Some AMWA members may be interested in NFPW's liability policy that was created specifically for its members. Currently, the membership fee is \$395 per year and anyone can become a member. The insurance is available to all NFPW members except for book authors, writers who earn more than \$200,000 per year, or those who have been named in a lawsuit during the last three years prior to enrollment. The annual premium is \$400. Liability coverage is \$300,000 per incident up to a maximum of \$500,000 per year with a \$500 deductible. Medical writers who meet the requirements could join NFPW and be covered by this liability policy. However, the program's limits are not changeable and may not be enough to satisfy some clients.

The NWU did not respond to Dr. Mak's request for an interview about its members-only liability insurance. However, an unidentified industry representative informed Dr. Mak that their liability insurer dropped NWU. The reason for this was not discovered.

Although many freelance medical writers perceive the need for professional liability insurance, few actually need it. If your client requests that you carry professional liability insurance, try to negotiate and explore other options before purchasing expensive liability policies. Freelancers with a real need for professional liability insurance should thoroughly investigate the different policies available. Dr. Mak cautioned that the insurance industry is quite dynamic and the information in her report may already be dated.