

## Professional Liability

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One of the most important member benefits offered by the American College of Nurse-Midwives (ACNM) is access to professional liability coverage for certified nurse-midwives (CNMs) and certified midwives (CMs). This coverage should be priced to reflect the experience of the profession and must be available in all states. While many members are able to get coverage through their employer, dependence upon such coverage leaves members at risk of losing coverage in the event of a job change.

ACNM is continuously engaged in activities designed to maintain a fairly priced policy for all members. In 2003, ACNM engaged Contemporary Insurance Services to provide coverage. ACNM members also benefit, through our continuing association with ACNM Insurance Services, from a proactive risk management program designed to help members avoid litigation and/or be well prepared to defend against unwarranted accusations.

This document provides basic information about professional liability insurance for midwives and additional resources on the subject.

### **Contemporary Insurance Services (CIS)**

CIS provides insurance through national Union Fire Insurance Company of Pittsburgh PA, an AIG member company. Its policy covers CNMs and CMs, and provides substitute midwife coverage, tail-free coverage for student midwives, new graduate and leave of absence discounts and makes available full-time equivalency coverage for job sharing situations. Contact CIS at 11301 Amherst Avenue, Suite 202, Silver Spring MD 20902. Phone 800-658-8943 or 301-933-3373; fax 301-933-3651, or visit [www.cisinsurance.com](http://www.cisinsurance.com). Enhancements are currently underway to provide ease of doing business for ACNM members.

### **ACNM Insurance Services**

ACNM Insurance Services continues to provide services for members with existing policies and those who cannot find insurance because of a claim history. Contact ACNM Insurance Services at 222 S. Prospect Avenue, Park Ridge, IL 60068; phone 1-800-950-2366; fax 800-547-2220.

### **Professional Liability Section**

The Professional Liability Section of the ACNM Division of Standards and Practice facilitates efforts to collect, maintain and distribute information about professional liability matters to members and the public. The section sponsors sessions at the Annual Meeting and provides information in *Quickening*, the ACNM newsletter, to help members understand and minimize the risk of professional liability claims. Contact information for the Section chair can be found on the ACNM Web site, [www.midwife.org](http://www.midwife.org). (Click on About ACNM, then Division/Section/Committee Chairs).

### **Resource Packet**

Like their physician colleagues across the country, CNMs/CMs are experiencing a professional liability crisis. Many forces that are beyond our control are forcing ACNM members to become experts in this complex topic. In order to meet this critical need for information, ACNM has published the Professional Liability Resource Packet. It is divided into four sections:

- Part 1 - Professional Liability Primer
- Part 2 - Physician Surcharge
- Part 3 - Legislation & Policy
- Part 4 – What to Do If You Are Named in a Lawsuit

Visit the ACNM Professional Liability page on our web site, at [http://www.midwife.org/professional\\_liability.cfm](http://www.midwife.org/professional_liability.cfm), to download the packet.

### **Vicarious Liability**

Physicians who serve as consultants to midwives, as well as those exploring the option of employing a midwife, sometimes inquire about whether such a relationship will increase their exposure to professional liability claims. If a midwife is the bona fide employee of a physician, the latter will most likely be subject to vicarious liability. Absent an employment relationship, however, such liability will vary depending upon the facts of each case.<sup>1</sup>

Evidence of a strong collaborative relationship and clear documentation of such is critical in the defense of malpractice cases brought against physician/midwife teams. There is a strong message from the risk managers: when the client's care demands collaboration, consultation, or referral, clearly document that plan.

### **Data on Professional Liability Claims**

Data on nurse-midwives as employees and co-defendants in liability claims is available from the *Survey of Professional Liability*, carried out by the American College of Obstetricians and Gynecologists (ACOG) in 1992, 1996, 1999 and 2003. ACOG reported the following:

- In 1992, 7.7% of respondents employed nurse-midwives; in 1999, 17.7% of respondents employed nurse-midwives; in 2003, 19.4% of respondents employed nurse-midwives.
- In 1992, 2.4% of the claims that were reported as opened or closed from 1990-1991 named a nurse-midwife as a co-defendant; in 1999, 2.2% of the claims that were reported as opened or closed from 1996-1998 named a nurse-midwife as a co-defendant; in 2003, 2.6% of the claims that were reported as opened or closed from 1999-2002 named a nurse-midwife as a co-defendant.
- In the 2003 Survey, other providers of labor and delivery services that were named as co-defendants between 1999 -2002 included:
  - 27.0 % Other obstetrician associated with your practice
  - 11.6 % Other obstetrician not associated with your practice
  - 16.3 % Resident
  - 7.1 % Nurse
  - 5.2 % Anesthesiologist
  - 3.5 % Pediatrician/Neonatologist
  - 3.3 % Family Physician
  - 2.6 % Nurse-Midwives

### **References**

1. Booth JW. An update on vicarious liability for certified nurse-midwives/certified midwives. *J Nurse Midwifery* 2007; 52:153-157.

The ACNM "QuickInfo" series was developed by the Department of Professional Services to respond to common inquiries, summarizing ACNM resources regarding a particular topic, as well as listing selected literature and a variety of other resources. Your feedback is welcomed; contact Professional Services at 240-485-1800 or [info@acnm.org](mailto:info@acnm.org).

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