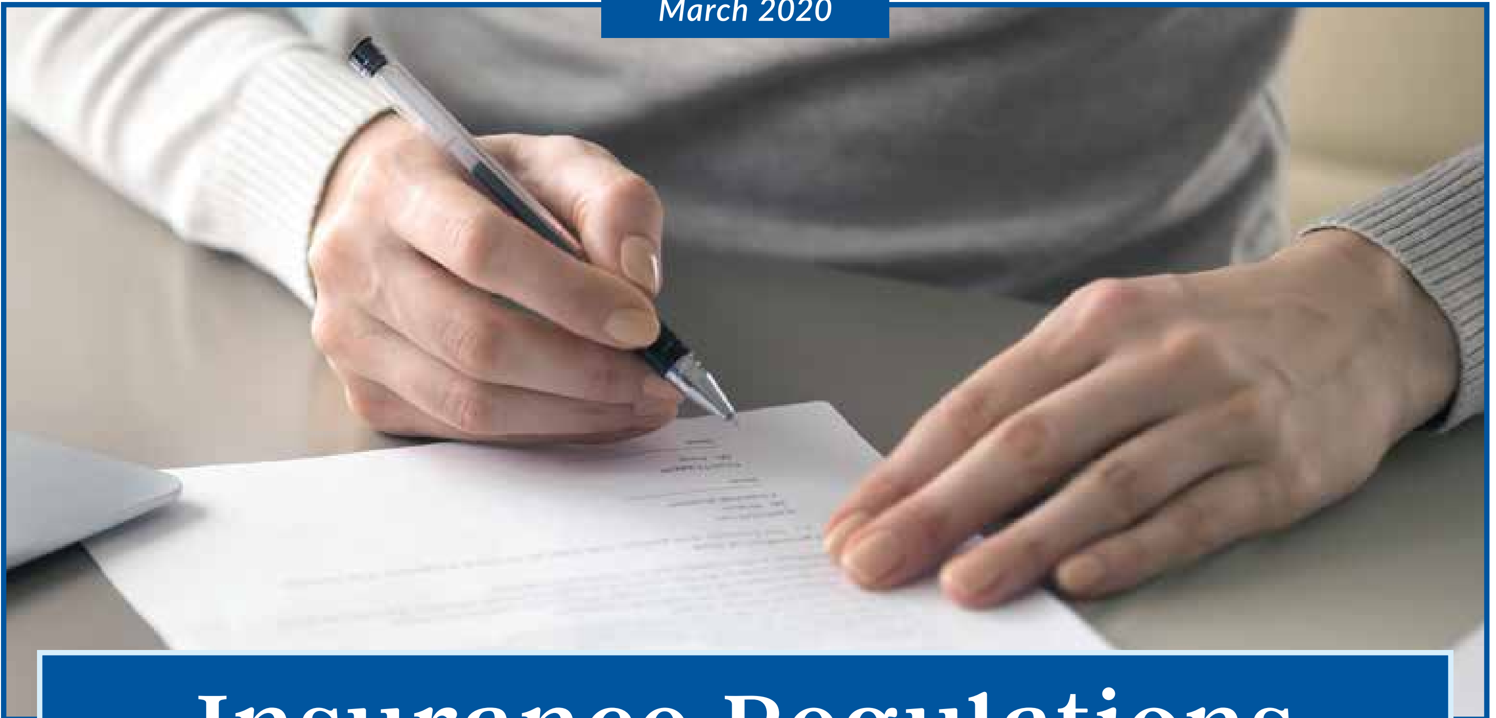
Avoiding Malpractice

Tips for Social Workers to Manage Risks

March 2020



Insurance Regulations

(A General High-Level View for the Consumer)

We buy insurance policies in one form or another to protect ourselves against our risk of perils. We shift certain risks to the insurance carrier when we buy an insurance policy contract. So, what is happening behind our policy purchase at the insurance company?

After all, for the collected premium, the insurance company just contractually assumed an obligation to accept a bundle of risks from us with present and future claims payouts. This liability is why we need insurance regulation.

As a policyholder of any insurance coverage such as auto insurance, homeowner's insurance, or professional liability insurance, regulations exist to protect the policyholder. That means YOU as the policyholder.

Insurance regulatory law protects the public through regulation and standardizing insurance policies and coverage, maintaining insurance company solvency requirements to pay claims, preventing illegal trade practices and fraud, controlling market conduct, preventing discrimination, verifying loss ratios and frequency and severity of perils through highly sophisticated actuarial statistical and predictive loss analysis, regulating premium rates that limit profits, and requiring producer agents and

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agencies to be licensed and regulated by a set of established laws.

Specifically, insurance law (a combination of statutory law, jurisprudence [court and trial system], and administrative regulations), enables the regulation and enforcement as enacted by each state's legislature. While the insurance policy contract is characterized as a private two-party contract between the insurance carrier and the policyholder, insurance is viewed as integral to the public interest. Therefore, the purpose of insurance law is to protect the public in general.

This public interest purpose was confirmed in 1945, by the United States Congress with the passage of the McCarran-Ferguson Act. This Act specifically assigned the responsibility and authority of insurance regulation to the state governments. As a result, each state established its own respective insurance department responsible for the regulation of all aspects of the insurance industry in its state.

Each state insurance department is administered by its Insurance Commissioner. The state Insurance Commissioner has the powers and duties to staff the department, appoint deputies, conduct investigations, hold hearings, issue fines, review and approve or decline insurance product filings, rates, and marketing materials, suspend or revoke certificates and licenses, conduct insurance company audits, and review data from the National Association of Insurance Commissioners (NAIC) zone examinations and its Insurance Regulatory Information System (IRIS) tests.

So, what does this mean to YOU? When shopping for insurance coverage, study the policy contract, but also consider the underlying financial capacity of the insurance company. Two quick and easy questions to ask in this regard are (i) what is the A.M. Best Company rating; and (ii) who is the reinsurer?

"Excellent" and "Superior" A.M. Best Company ratings run from A – to A++ depending on the insurance company's financial size category which is driven by policyholder surplus on the insurance company's balance sheet. This is an important indicator regarding the insurance company's ability to pay claims. The NASW Risk Retention Group is a member of this top tier class. A.M. Best Company ratings of

B – to B++ are classified as *“Good”* to *“Very Good”*. A.M. Best Company ratings of C – to C++ are classified as *“Marginal”* to *“Fair”*.

Evaluating the Reinsurance company is important because virtually all insurance companies reinsure some of their policy risk to reinsurers who backstop the risk, just like a safety rail on a highway. Reinsurance is provided by the reinsurer through a *“Treaty”*, or contractual process that insurance companies enter into to insure their loss exposures.

The reinsurer is referred to as the *“Assuming Company”* because it assumes exposure from the insurance company called the *“Ceding Company”* that sells the original insurance policy to the public. The risk exposure that is ceded to the reinsurer can be expressed in many ways such as a dollar amount or percentage and perhaps above a specified limit. The *“Retention”* is the exposure that the insurance company retains and can be expressed as a percentage or dollar amount.

For example, a ceding company may want to retain the first $100,000 of each loss and have the reinsurance company pay claims over $100,000. This retention amount is like a deductible. Some examples of reinsured loss exposures are the type of peril that the insurance company wants to specifically reinsure such as flooding in a flood zone; a high concentration of risks in a certain geographic region such as hurricanes in Florida; a high concentration of risk in certain occupations, and large losses from individual risks.

The NASW Risk Retention Group is A.M. Best rated *“Excellent”* and is reinsured by SwissRe, the #1 reinsurer worldwide with an A.M. Best Company rating equal to A+ *“Superior”*.

Not all professional liability insurance policies cover patient records breaches, so read your policy carefully. The NASW RRG professional liability policy is the most comprehensive in the industry. The NASW RRG also offers a low-cost cyber liability policy that protects the practitioner against third-party information breach for which HIPAA holds the practitioner accountable.

Learn more about our Professional Liability Insurance for social workers by visiting www.naswassurance.org.

Our exclusive program is the only program endorsed by the National Association of Social Workers. To speak with a knowledgeable, licensed insurance representative, call 888-278-0038.