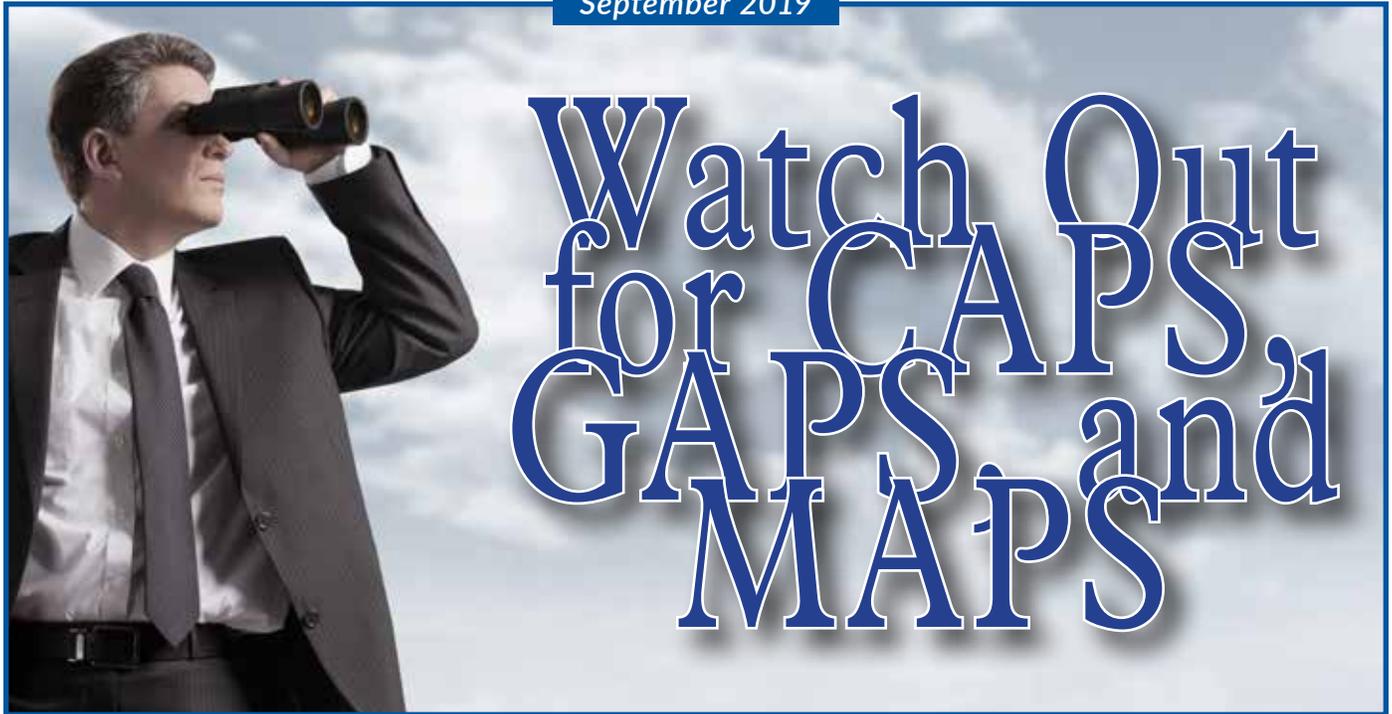


Avoiding Malpractice

Tips for Social Workers to Manage Risks

September 2019



Watch Out for CAPS, GAPS and MAPS

Insurance policies are legal contracts. As such, they are very complicated and loaded with legal terms and precise definitions. Unlike the NASW Risk Retention Group that puts its insureds first, insurance carriers are in business to maximize profits, especially the Wall Street insurance companies.

As a result, they utilize their decades of claims history and loss experience to carve out certain risks and perils from their insurance policy coverages.

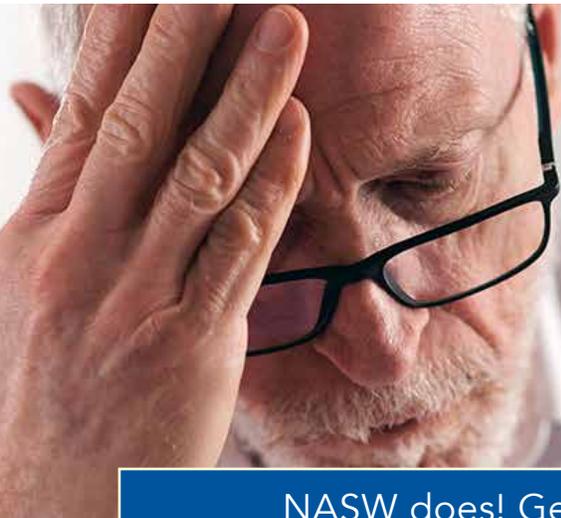
Many add deductibles and make you pay for a portion of legal defense fees, including the legal defense expense from the commencement of the legal services. Frequently they create deductibles where when a claim occurs, the insured pays the first \$500, or \$1,000 or even more before

the insurance carrier pays anything at all. This is called the “first-dollar”.

Limits and Sub-limits are utilized to cap the insurance carriers’ losses from a claim, so you wind up paying for the gaps and caps. These gaps, caps, and deductibles are the obvious tactics that insurance carriers use.

The more obscure tactics that insurance policies have are the gaps in coverage and the complex maps that the insured must follow to trace whether the coverage exists in certain circumstances.

This is where the policy evaluation and decision making when buying a specific policy gets very tricky. It requires a thorough policy analysis, often with the help of a trusted advisor.



Did You Know...

if one of your clients is injured at your office

YOU can be SUED?

NASW does! General Liability Protection is a critical option protecting your practice if injury or property damage occurs to others as a result of your business operations. You can be sued for almost anything ... *even if you didn't do anything wrong!*

For More Information call 888-278-0038 or email asi@naswasi.org

How can you trust your insurance agent for a factual non-biased interpretation when that insurance agent receives a commission from the policy sale?

Dealing directly with the Risk Retention Group, you get straight answers, answered honestly and ethically without any bias because the Risk Retention Group model is uniquely better for the customer.

Here are some examples you should know.

Virtually all professional liability policies that say they include general liability coverage do not. The language in the policy stipulates that only liability perils are covered while Professional Services are being delivered to the Client in the Office. These are narrowly defined terms in the policy. This means that if the Client takes a bathroom break during a therapy session while Professional Services are being delivered, and gets hurt from a slip

and fall, the policy does not respond.

Likewise, if the Client's mother slips and falls in the office waiting room while the child client is undergoing Professional Services therapy, the policy does not respond either. She is not a Client, and even if she was a Client, she was not undergoing therapy or Professional Services at the instant of the slip and fall.

It is important in this example to clearly understand the definition of Client, Office, and Professional Services. This becomes the map through which the policy operates. So, for example, you have to weave your way through a 26-page policy contract to figure out if the coverage exists.

Certainly, gaps exist just by reading what the definitions, limits, sub-limits, and first dollar deductibles are.

Since there is over a 90% chance that you will be subject to a professional liability insurance incident and claim during your career, you need to be aware of the following. There are sections in most typical professional liability policies that are called Coverage Part A, Coverage Part B, and Coverage Part C. Each section is filled with may defined words in bold print, so you have to refer to the definitions section of the policy contract to understand what is happening. The better policy contracts like all of the Risk Retention Group policy contracts have a Definitions section, which makes it is easier to understand. Many insurance carriers hide the definitions in the body if their policy contract text which makes it confusing.

What in the world does all this mean?

Think of it this way. Coverage Part A is your actual professional liability malpractice coverage that responds when Damages for a Claim alleging from a Professional Incident, and your provision of Professional Services during the Policy Period. The first thing you must do is to examine the policy contract to determine what these exact definitions mean and what is included and excluded.

Envision yourself in a variety of situations, and then test the policy language and meaning to see if the incident that you are imagining is covered as an acceptable claim.

Coverage Part B is a supplemental liability, for example, a Business Invitee or a Client. We have to refer to the definitions section of the policy contract to determine who is covered and in what specific situation. Also

stated are terms such as Property Damage, Personal Injury, Bodily Injury, Professional Services, and Office or Workplace. Again, these are specifically contextual terms in nature and require careful interpretation with help from a trusted advisor.

Then we have Coverage Part C which is a basket of additional coverages. These are typically a catch-all list of coverage benefits that vary significantly by an insurance carrier. Some examples include emergency first aid that ties into Workplace, Business Invitee, Bodily Injury, Named Insured, and professional Services.

Let's look at some more detail. When you evaluate a professional liability policy, focus



Mistakes Happen
*Not Having Proper
Coverage Doesn't Have
to be One of Them*

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on Coverage Parts A, B, and C, as well as the definition of Workplace or Office. For example, Coverage Part A covers damages from malpractice. Is that limited to the Workplace? Many Risk Retention Group insureds practice outside of the Workplace and Office, so the RRG PLI policy covers malpractice in all venues. Make sure that the policy coverage follows you.

Many carriers limit or exclude Coverage Part B benefits, which cover damages resulting from bodily injury, property damage, or personal injury suffered by the Client or Business Invitee.

Many carriers exclude Coverage Part C damages arising from First Party Assault. Those professional liability policies that do cover these risks often limit them to the Workplace or Office only. The Risk Retention Group recognizes that the insureds work, or provide Professional Services, outside of the Office or Worksite in many different venues and need the coverage. First Party Assault means that the insured was assaulted and damaged (property loss and/or bodily injury resulted), by a Third Party (criminal).

If the insured has a general liability policy in place, many insurance carriers require a first dollar deductible be paid by the insured. For example, if a client slips and falls resulting in a broken ankle, expect to pay the \$2,500 deductible for the medical bills. A zero deductible is what you want. That is why all Risk Retention Group policies are zero deductible.

Virtually all general liability policies only respond to incident claims within the Office or Workplace. The Risk Retention Group general liability policy follows the insured to all of the venues where therapy or Professional Services are delivered. Most professional liability policies only respond to in-Office malpractice claims, including bodily injury. But not the Risk Retention Group.

There is no doubt that your profession is a noble profession with implicit values of service, integrity, and clinical competence. To continue with this effort, you must thoroughly read the proposed insurance policies to assess the caps, gaps, and understand the maps that exist in coverage.

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.

