MIDWIVES’ PROTECTION PROGRAM

Coverage Overview

MABC Membership

November 4, 2024

Midwives Protection Program

BRITISH COLUMBIA | Ministry of Finance

Introductions

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Client Services - Health Programs

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Midwives Protection Program

Acknowledgement

Grateful to live, learn and work on the unceded traditional territories of the the Lək̓ʷəŋən and W̱SÁNEĆ peoples

Agenda

- MPP Background
- Services
- Coverage
- Midwives’ responsibilities
- Questions

What is MPP - History

- Risk Financing Program housed within Ministry of Finance

- Nov 2000 MABC's private insurer:
  - reduced malpractice coverage limit **by 50%**
  - increased premiums by **nearly 800%**

- Other private insurers not interested or too costly

- Midwives Protection Program established Feb 1, 2001

Midwives Protection Program

What does MPP do?

- **Administration / Consulting Services**
  - MABC administers the program in conjunction with MPP
  - Interpret and explain coverage
  - Risk management advice
- **Claims Services**
  - Manage claims & litigation

Midwives Protection Program

The MPP Team

Advisory / Consulting Services

Sharon White, Director, Client Services
Sharon.P.White@gov.bc.ca

General Mailbox: MPP@gov.bc.ca

Claims Services

Kim Oldham, Director, Claims & Litigation Management
Kim.Oldham@gov.bc.ca

Senior Claims Examiners / Legal Counsel:
Laura Miller: laura.miller@gov.bc.ca
Kash Basi: kash.basi@gov.bc.ca

General Claims Mailbox: RMBClaims@gov.bc.ca

Midwives Protection Program

How does MPP Work?

- Actuarially valuated program of self-insurance
- Program is intended to be self-sufficient
- Funded through contributions (premiums) from MABC members with initial start-up contributions from Ministry of Health
- Premiums collected by MABC

Midwives Protection Program

Who is Covered – Covered Entities

BC Registered Midwives who are:

1. A member of the Midwives Association of BC
2. In good standing with the BC College of Nurses and Midwives
3. Current in their contribution/premium payments

while acting within the scope of midwifery practice as set out in the *Health Professions Act* and Midwives Regulation 281/2008, as amended from time to time.

Midwives Protection Program

Who is Covered – Covered Entities

Coverage for Midwives also includes:

- Midwives who have elected to cease the practice of Midwifery in a form approved by the MABC and MPP (e.g. retired midwives, midwives on leave, etc.)
- Present or former second attendants providing services to a Midwife under an arrangement approved by the BCCNM
- Student Midwives attending a midwifery program at an education institute approved by BCCNM, while engaged in a preceptorship under the direct supervision of a covered Midwife

Midwives Protection Program

Who is Covered – Specified Entities

- **Sole Proprietorship** – an unincorporated business that is owned by one individual
- **Partnership** – an association or relationship between two or more Midwives who join together to carry on a business in common with a view to profit in providing Midwifery Services
- **MABC**

MPP ***does not cover*** corporations, including personal corporations

What is covered?

- Professional Liability (Malpractice)
- Disciplinary Matters Assistance
- Coroner’s Inquest Legal Assistance
- Criminal Defense <u>Reimbursement</u>

Professional Liability (Malpractice)

Covers **third party claims/losses** (e.g. injury to mother or newborn) **arising from:**

- the provision of ***Midwife Services*** by a ***Midwife*** while acting ***within the scope of duties*** as a midwife and customary to the practice of midwifery as set out in the *Health Professions Act - Midwives Regulation*; and
- for ***Specified Entities*** (e.g. Sole Proprietorship, Partnership), Professional Services rendered in BC and directly related to the practice of Midwifery

LIMIT: **$20,000,000** per claim for Midwives
$ 5,000,000 per claim for Specified Entities

There is no annual aggregate.

Disciplinary Matters Assistance

- Provides legal assistance for disciplinary matters (complaints to BCCNM of professional misconduct, incompetence or incapacity)
- Does ***not*** assist with privileging issues (but disciplinary matters can impact privileging decisions)

LIMIT: up to **$100,000** annual aggregate per Coverage Year (February 1 of each year)

Midwives Protection Program

Coroner’s Inquest Legal Assistance

- Legal assistance when a midwife is called to a coroner’s inquest due to provision of midwifery services and while acting within scope

- Does not apply when midwife is acting as an expert witness in a coroner’s case or as a post-mortem witness

LIMIT: **$20,000,000** per claim, no annual aggregate

Midwives Protection Program

Criminal Defense Reimbursement

- Covers criminal allegations only while providing midwifery services
- **Reimbursement** for costs incurred for the successful defense of a criminal charge
- Reimbursement is not paid until:
  - criminal proceedings concluded; and
  - all appeal periods have expired; and
  - all charges brought against the midwife were dismissed or stayed.

LIMIT: **$150,000** per action
$150,000 annual aggregate

Midwives Protection Program

Midwives' responsibilities

- Cooperate and follow advice given by MPP and its external legal counsel
- Report incidents (including potential complaints) promptly, fully & honestly
  - Incident Reporting Guidelines and Form are available on MPP website
  - Once reported, Claims team will be in touch
  - If unsure whether to report, err on the side of caution (no downside or penalty for MPP reporting)
- Maintain Commercial General Liability coverage

Midwives Protection Program

Midwives Protection Program

Incident Reporting Guidelines

Phone: (250) 356-1794   Claims Fax: (250) 356-0661

PREGNANCY

- ☐ Pre-eclampsia or HELLP syndrome with seizures or other significant sequelae
- ☐ Antepartum hemorrhage with significant sequelae
- ☐ Medication or prescription error
- ☐ Intrauterine fetal demise
- ☐ Client refusing recommended care with significant concerns for client/fetal wellbeing
- ☐ Untreated STDs, HIV, or other infections potentially impacting fetal wellbeing

LABOUR/DELIVERY

- ☐ Unattended birth
- ☐ Unplanned homebirth with concerns or client dissatisfaction
- ☐ Unexpected preterm delivery
- ☐ Uterine rupture or dehiscence
- ☐ Umbilical cord accidents/complications
- ☐ Assisted or surgical delivery with significant complications
- ☐ Significant tearing and/or episiotomy with other sequelae or dissatisfied client
- ☐ Significant hemorrhage (> 1000 ml and/or transfusion)
- ☐ Apgars ≤ 4 at 1 min and/or ≤ 6 at 5 mins
- ☐ Significantly abnormal blood gases (i.e. umbilical artery pH < 7.0, base excess ≥ -12)
- ☐ Difficult resuscitation (i.e. prolonged positive pressure ventilation, any intubation)
- ☐ Stillbirth

POSTPARTUM

- ☐ Complicated or serious infection/septicemia
- ☐ Significant post C-section complication
- ☐ Suturing / perineal healing concerns
- ☐ Maternal ICU admission
- ☐ Maternal death
- ☐ Thromboembolism (DVT, PE)
- ☐ Disseminated Intravascular Coagulation
- ☐ Difficulty following-up at-risk infant / client
- ☐ Significant post-operative wound infection

NEONATAL

- ☐ Significant infant feeding or weight loss issues
- ☐ Complications from resuscitation (i.e. pneumothorax)
- ☐ Significant fetal compromise (HIE/acidosis/asphyxia)
- ☐ Neonatal seizures or other neurological signs
- ☐ Abnormal head imaging / EEG related to possible birth injury
- ☐ Meconium aspiration syndrome
- ☐ NICU admission prolonged >72 hours or with ongoing concerns
- ☐ Significant neonatal infection (i.e. GBS, HSV)
- ☐ Severe hyperbilirubinemia, kernicterus
- ☐ Neonatal death

GENERAL/PROFESSIONAL

- ☐ Known dissatisfied client
- ☐ Complaint to College of Midwives
- ☐ Complaint to health authority or hospital
- ☐ Known breach of CMBC standard
- ☐ Any telephone or written comment referencing law suit or compensation or complaint sent to Ombudsman, Minister etc.
- ☐ Significantly negative social media review
- ☐ Inter-professional dispute or criticism of care
- ☐ Request for records by legal counsel
- ☐ Client refusing recommended care where there is concern for client / fetal / neonatal wellbeing
- ☐ RM terminating care of client
- ☐ Family raising concerns about midwifery care
- ☐ **Any incident of concern requiring advice**

NOTE: These are guidelines only, based on areas where risk of complaints or legal action is highest.

Should you have any other concerns or an incident occurs in an area not listed here you are advised to contact the MPP for advice. Prompt reporting is a requirement of MPP coverage.

Sources: Health Care Protection Program and Midwives Protection Program claims history, 2001 MPP Incident Reporting Guidelines, Society of Obstetricians and Gynaecologists of Canada guidelines, Health Care Insurance Reciprocal of Canada (HIROC), and Canadian jurisprudence.

Incident Reporting Guidelines & Incident Reporting Form:

https://www.bcmpp.org/sites/default/files/documents/Pub_MPP_IncidentRptingGuidelinesFRM_fillable_2021-01-13.pdf

Claims Email:

RMBClaims@gov.bc.ca

Phone:

(250) 356-1794

Midwives Protection Program

What MPP *does not* Cover

- Loss or damage to property
- Injury to the midwife
- Loss of income/business concerns
- Occupier's or general liability losses / claims (e.g. slip & fall)
- Expert witness activity
- Privileging issues
- Injunctive or defamatory relief against clients
- Legal advice outside the context of a claim

MABC Insurance Solutions

Protection for You and Your Practice

November 2024

About BMS

700,000+
Healthcare & Regulated Professionals

60+ Years
Combined Industry Experience

Dedicated
Claims Advocacy & Support

Specialist
Team of Knowledgeable Brokers

Tens of Thousands
Businesses Throughout Canada & Globally

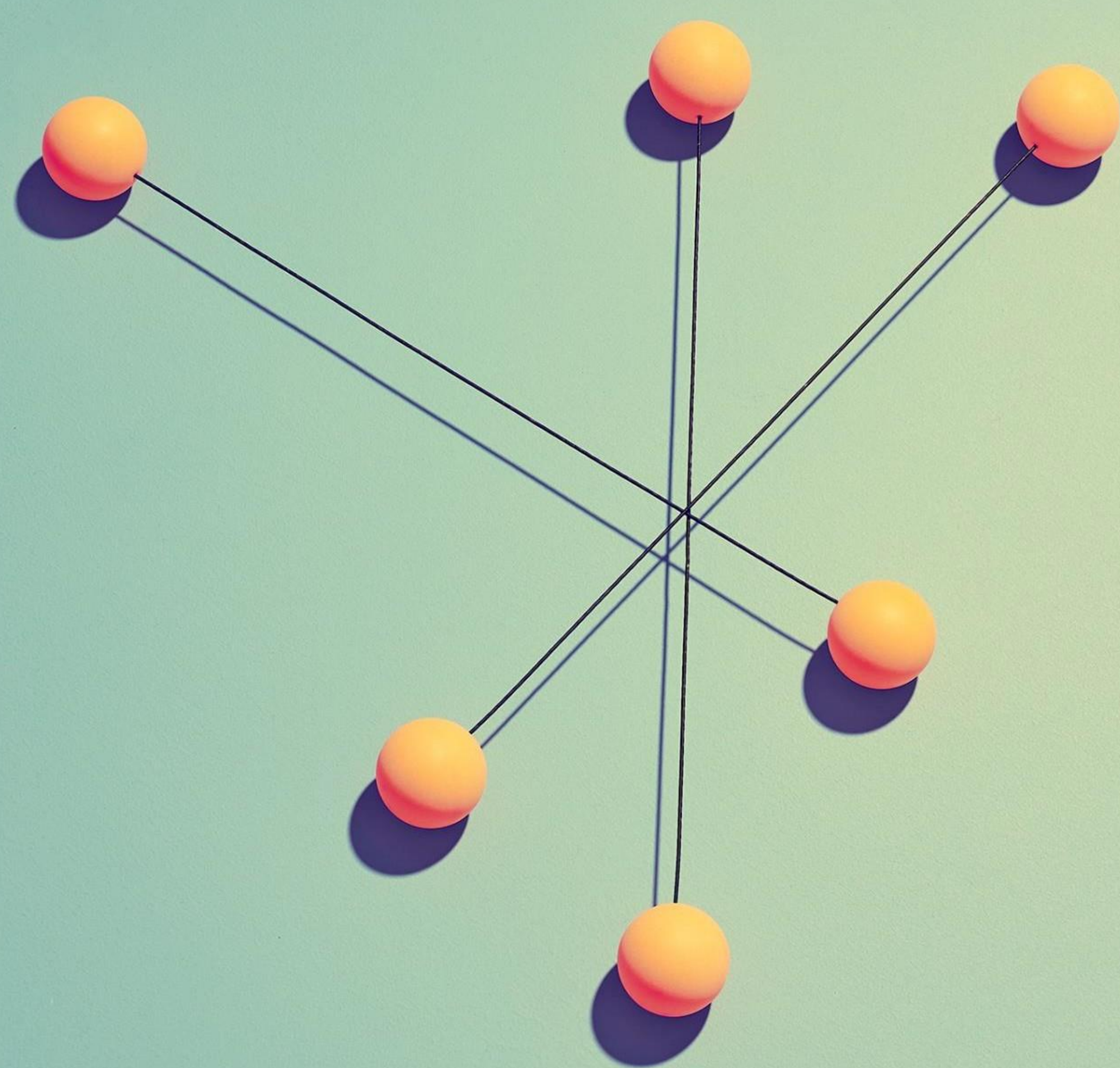
Strategic Risk
Management & Consultation

BMS Canada acknowledges that our office, located in Ottawa, is on the unceded, unsurrendered Territory of the Anishinaabe Algonguin Nation whose presence here reaches back to time immemorial.

MABC Insurance Solutions

*Protecting midwives with **Commercial General Liability** and other specialized insurance solutions to protect **you** and **your practice.***

Key Points



What is CGL?

How Insurance Responds

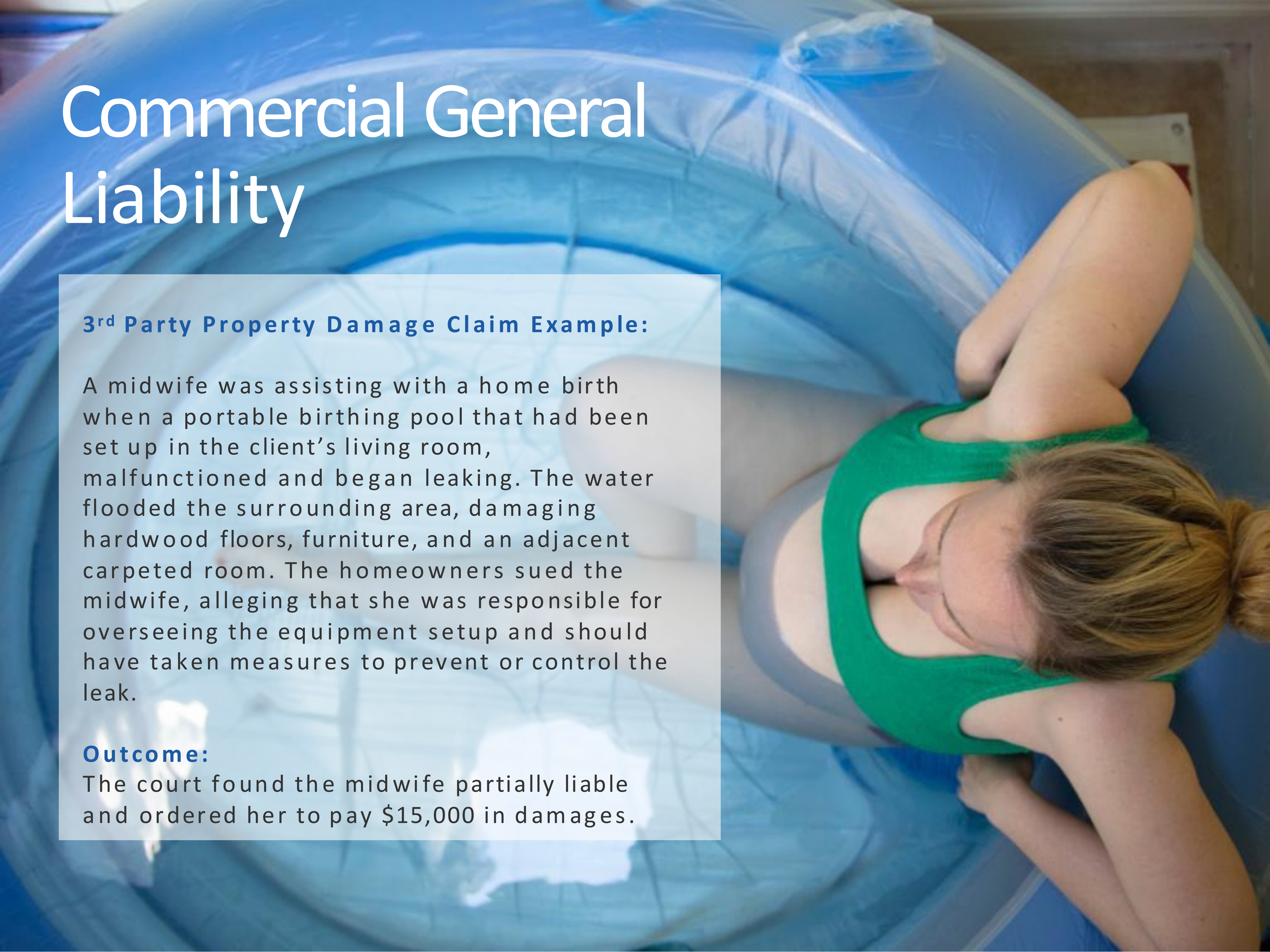
Coverage Highlights

Other Coverage

What is Commercial General Liability (CGL) Insurance?

An insurance policy that:

- ✓ Covers claims related to bodily injury, property damage, and personal & advertising injury;
- ✓ Protects the insured/the insured business from financial losses due to claims by third parties (customers, clients, or other businesses) for incidents that happen on the business's premises or as a result of its operations.

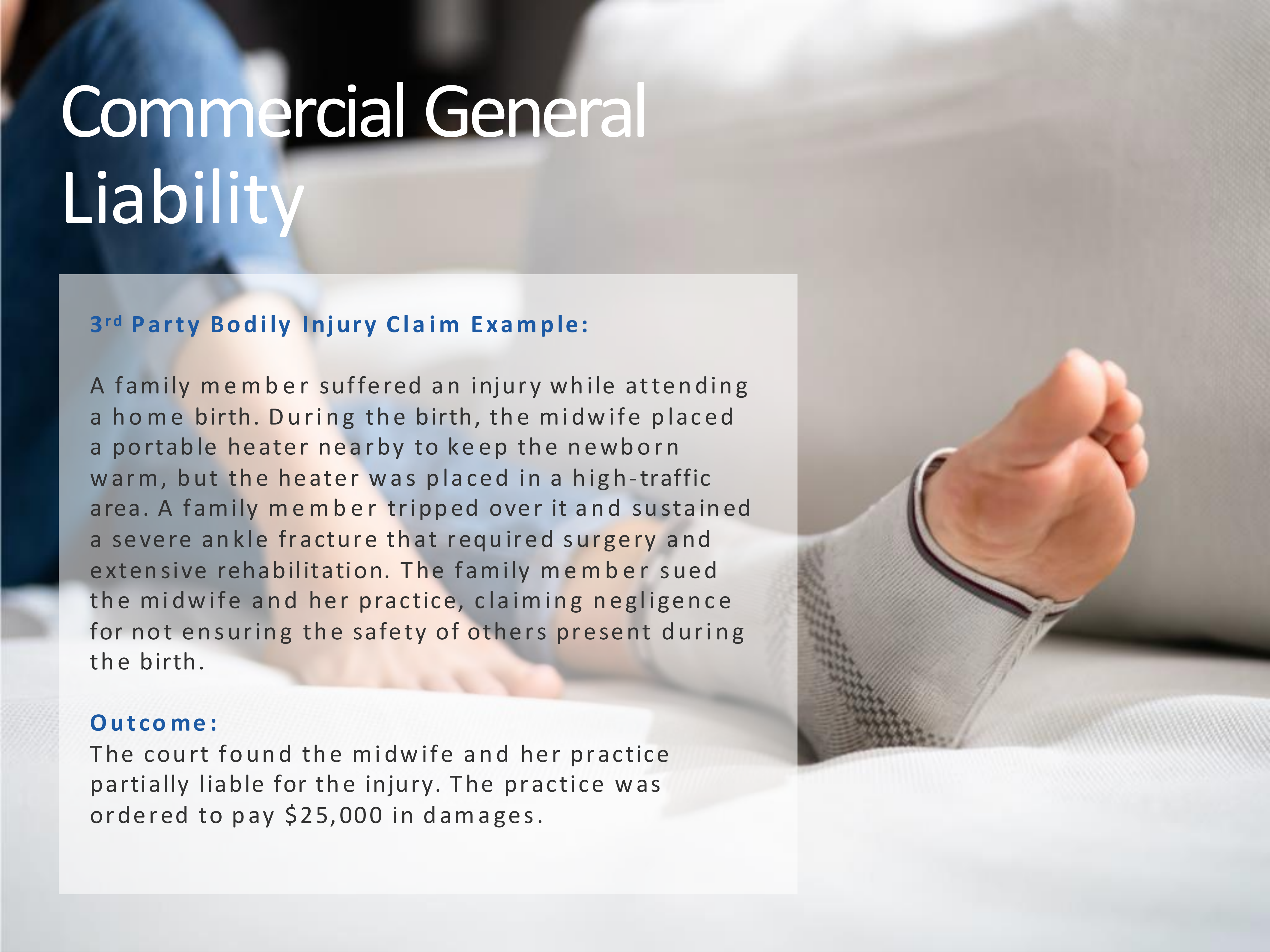


Commercial General Liability

3rd Party Property Damage Claim Example:

A midwife was assisting with a home birth when a portable birthing pool that had been set up in the client’s living room, malfunctioned and began leaking. The water flooded the surrounding area, damaging hardwood floors, furniture, and an adjacent carpeted room. The homeowners sued the midwife, alleging that she was responsible for overseeing the equipment setup and should have taken measures to prevent or control the leak.

Outcome:
The court found the midwife partially liable and ordered her to pay $15,000 in damages.



Commercial General Liability

3rd Party Bodily Injury Claim Example:

A family member suffered an injury while attending a home birth. During the birth, the midwife placed a portable heater nearby to keep the newborn warm, but the heater was placed in a high-traffic area. A family member tripped over it and sustained a severe ankle fracture that required surgery and extensive rehabilitation. The family member sued the midwife and her practice, claiming negligence for not ensuring the safety of others present during the birth.

Outcome:
The court found the midwife and her practice partially liable for the injury. The practice was ordered to pay $25,000 in damages.

Key Elements of CGL insurance

Bodily Injury & Property Damage Liability (2M, 3M, or 5M)
Covers the costs if the insured/insured business is found liable for causing physical harm to someone or damaging their property.

Personal & Advertising Injury Liability (2M, 3M, or 5M)
For claims related to defamation, copyright infringement, and other offenses that may arise from advertising practices or interactions.

Products - Completed Operations Liability (2M, 3M, or 5M)
If a business manufactures or sells products, this aspect of a CGL policy can cover claims of injury or damage caused by the product after it has left the business premises.

Medical Payments (50,000)
The policy will pay for immediate medical care regardless of fault, up to a specified limit

CGL Options for MABC Members

Individual CGL

Business CGL

Clinic Package

For Midwives with valuable ***property/contents*** to insure.

Includes CGL, plus:

- ✓ $50,000+ Contents
- ✓ Business Interruption
- ✓ $50,000+ Equipment Breakdown
- ✓ $10,000 Crime

Clinic Package

Contents covers items usual to a clinic, including desks, chairs, filing cabinets and computers, as well as any equipment, stock, and improvements and betterments for which you are responsible.

Crime coverage protects against financial loss due to dishonesty, fraud, or theft of money, securities or other property owned by the clinic.

Business Interruption insures against loss of income resulting from direct physical loss or direct physical damage to the premises by an insured peril (e.g. fire).

Clinic Package

Property/Business Interruption Claim Example:

A fire broke out in an adjacent unit of the building where the practice was located, causing smoke and water damage to the midwifery clinic itself. While the clinic did not sustain direct fire damage, smoke infiltration and water from firefighting efforts affected furniture, medical equipment, computers, and important client records. The business had to close temporarily for repairs and cleaning, resulting in a loss of income.

Outcome:

The insurance company paid $95,000 to cover the losses and get the clinic back to normal operations.

Consider your Circumstances…
Do you:

- Deliver midwife services at one practice only?
- Deliver midwife services at more than one practice?
- Operate a midwife practice as a:
  - Sole Proprietorship;
  - Partnership; or
  - Corporation?
- Have valuable contents, stock, and/or professional equipment?

Do you….

Deliver services at one practice only or at multiple practices?

Check to see if you are an employee of the practice(s).

To meet the insurer’s definition of employee, the midwife must be:

- working for the practice,
- paid by the practice,
- be working under the direction and control of the practice, and
- not be a volunteer or independent contractor.

If you are an employee, then you are automatically insured under the practice’s CGL policy.

If you are not an Employee…

You can:

1. Ask the practice(s) to add you as an Additional Insured Midwife under their CGL policy, or

2. Purchase your own individual CGL policy.

Do you...

Operate a SOLE PROPRIETORSHIP?

Individual CGL
Cannot add other midwives to your policy

OR

Business CGL
Can add other midwives as Additional Insured Midwives (for non-employees and/or midwives who do not have their own CGL)

OR

Clinic Package
Can add other midwives as Additional Insured Midwives (for non-employees and/or midwives who do not have their own CGL)

Do you...

Operate a PARTNERSHIP?

Business CGL
Can add partner midwife (and other midwives) as Additional Insured Midwives (for non-employees and/or midwives who do not have their own CGL)

OR

Clinic Package
Can add partner midwife (and other midwives) as Additional Insured Midwives (for non-employees and/or midwives who do not have their own CGL)

Do you...

Operate a CORPORATION?

Business CGL
Can add other midwives as Additional Insured Midwives (for non-employees and/or midwives who do not have their own CGL)

OR

Clinic Package
Can add other midwives as Additional Insured Midwives (for non-employees and/or midwives who do not have their own CGL)

Tailored Insurance Solutions

Designed for Canadian Healthcare Professionals

- Business Professional Liability
- Cyber Security & Privacy Liability
- Employment Practices Liability
- Legal Services Package
- Legal Expense Insurance
- Family Cyber
- 24-hour Accident
- Critical Illness

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