

You're Changing Jobs: Will Your Insurance Disappear?

By GARY MCCAMMON, AAPA Insurance Services

A recent question from an AAPA member: "My employer provides my professional liability insurance. It is claims-made coverage. I will be leaving the practice in a few months. He tells me that the cost of tail coverage is more than \$10,000 for me and he cannot afford to pay it. I don't have a written employment agreement that requires my employer to buy the tail, although he told me he would cover my insurance. Since I will no longer be working there, he does not feel obligated to provide it. What do I do?"

First, some 20/20 hindsight: You should have spelled out in your employment agreement that the employer would provide insurance for liabilities incurred in the scope of employment *and* that the obligation to do so would survive termination of employment.

But let's deal with the situation at hand. It would be unusual (although possible) that an employed PA would have to tail out when covered on an employer's policy. Usually, as long as the employer maintains continuous coverage under that policy or subsequent replacements thereof, former employees continue to be covered for alleged malpractice during their terms of employment. You'll want to make sure that continuous coverage is being maintained by requesting a certificate of insurance from your former employer each year after you leave that job. It's a bit of a pain, but it's the

only way to know you're covered at all.

I suggested that this PA get an actual copy of the employer's policy to evaluate if, in fact, a tail would be needed. When she was able to get a copy, it revealed that the employer had actually procured a separate policy in the PA's name. This was separate and apart from the employer's policy. This was good news for more than one reason.

First, the PA could control whether or not to purchase tail or replace the policy with a continuous successor policy. She would not have to worry about following up with the employer every year for a certificate of insurance.

Secondly, a successor policy that either maintained her retroactive date on a claims-made basis or provided prior acts as part of an occurrence policy would preclude the need for a tail altogether. In this case, she was able to apply to the AAPA-endorsed occurrence plan where the prior acts coverage costs about 10 percent of the cost of the tail premium she was quoted from her prior insurer. The soon-to-be-former employer is so pleased with the dramatic reduction in cost that he is willing to foot the bill for the prior acts coverage. Before, it looked like a potentially contentious situation, as he did not want to shell out the \$10,000.

Also, because she will have an occurrence policy going forward, she will not need to worry about buying a tail.

The main point of all of this: Do you know where

your professional liability coverage is? This PA, like most, relied on her employer to provide coverage, which is great if it is good coverage and until that employment stops. Because the office manager handled the insurance, the PA did not know she had her own policy. Now if she is sued several years down the road, she will know to whom to report the suit and that the legal defense will respond to her interests. She also knows to verify how she is covered before she takes a new job, and to reconfirm it every year.

This PA was ultimately glad she worried about her professional liability insurance when changing jobs, but regretted that she did not think about this earlier and could have foregone the anxiety and aggravation with her employer.

Finally, if you don't ask, you don't get. Ask your employer if he or she will reimburse you for your own policy. In many cases, this may actually cost less than carrying you on the employer's policy. You get your own policy that you can control. Your employer saves money. It's one of those win-win situations.

For further information, you can reach AAPA Insurance Services at (toll-free) 877/356-2272.

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