

Who is HIROC?

- HIROC is the acronym for Healthcare Insurance Reciprocal of Canada
- HIROC is a non-profit organization that insures over 500 healthcare organizations in Canada, including Midwives in Ontario, Alberta, Saskatchewan and Manitoba and Nova Scotia.
- In Manitoba, Regional Health Authorities (RHA's) are insured by HIROC.
- The Manitoba Association of Midwives (MAM) is a HIROC subscriber. The insurance from HIROC provides comprehensive coverage, including General Liability and Errors and Omissions for Directors and Officers for the organization and includes legal defense coverage for its members.

What is the benefit of having additional insurance? Why wouldn't the RHA I work for cover all of a financial claim against me if a lawsuit were file against me and my RHA?

In order for HIROC to address this question, it is imperative for us to assist you in understanding your Employer's (RHA) insurance.

- In Manitoba, midwives employed by an RHA are insured for both General and Professional Liability by their employer (RHA). The RHA (Named Insured) purchases insurance that includes midwives as "Additional Insured" persons for their employee activities.
- All RHAs in Manitoba carry a minimum limit of \$10,000,000 liability insurance for any one occurrence. Legal Fees to defend a claim are in addition to this limit. All defendants are covered to the policy limit.
- HIROC premiums for midwives are paid by the employer. The employer is responsible for the deductible where applicable. As long as you are acting on behalf of a HIROC subscriber, you have full coverage under its policy in the event of a lawsuit.
- RHA insurance coverage does not provide defense coverage for allegations of a criminal nature, representation at legal inquests or hearings or disciplinary actions.
- Midwives who are members of MAM are eligible for this important supplementary coverage (see summary attached) as a membership benefit. Midwives who elect to take this coverage will be added to the MAM coverage as an additional insured by endorsement.
- Midwives are encouraged to speak with their employers or call HIROC if they have any questions about their insurance.

How does the claim process work? How and when should we be advising HIROC of an adverse outcome?

- The value of your timely reporting of incidents and claims to HIROC cannot be over stated!
- Timely reporting helps HIROC recognize time sensitive and urgent situations that require our immediate involvement.
- Delays in reporting have proven to negatively impact our ability to defend a claim, resulting in increased expenses for all concerned, not to mention the very definite impact such delays can have on the mental well being of all involved parties.

How is my insurance affected when I go on maternity leave, a leave of absence or retire from midwifery practice? That is, if I am insured the year an adverse outcome occurs, but the claim is filed against me and the RHA in a year I am not insured, will I be covered?

Continuity of Coverage (Employer and MAM)

- With respect to MAM, we do have concerns about continuity of coverage if midwives are dropping “in and out” of MAM membership, so to speak, either due to employment status, maternity leave, change in careers, etc.
- To accommodate this situation, a non-practicing midwife can maintain additional insured status and maintain continuity of coverage for a period of up to 24 months on her MAM policy for a minimum and fully retained premium.
- If a midwife is leaving practice altogether, she should maintain coverage for this minimum period of two years and she should ensure that any potential claim on the policy is reported to MAM and HIROC before discontinuing coverage.
- With respect to liability coverage provided by the employer, as long as the employer has maintained coverage with HIROC, coverage is continuous. There is only the need for the midwife or the employer to prove employee status at the time of the incident or alleged harm.
- If the employer changes coverage (insurer), they would have to ensure that coverage for claims that were unreported was addressed. While we experience an excellent retention rate of subscribers, this is an additional reason to ensure that midwives understand how important is to report any potential claim/liability as soon as possible. Once it has been formally reported to HIROC, we are responsible for it even if the insurer changes.
- It is very important that Midwives cooperate in the claim reporting and investigation process. The earlier we get the information, the better we are able to represent the midwife.

Are there any reasons or situations that I may be denied insurance by HIROC?

- Fraudulent, dishonest, criminal or malicious acts
- Liability assumed under contract or agreement
- Any fines imposed by law or matters subject to ruling of Provincial or Federal government authorities, or such matters which shall be deemed uninsurable by law

Summary of the additional coverage provided to members of Manitoba Association of Midwives. This coverage is for legal defense and is not provided by the employers

HIROC Certificate #103094/Master Policy 2006/1

1. Defense of Criminal Actions Reimbursement

Reimbursement will be provided for the costs, charges, and expenses (excluding salaries or loss of income) incurred in defending actions, suits, or proceedings before criminal courts, that pertain to allegations of negligence or omissions occurring during the course of the midwives professional activities against the midwife if the defense proves to be fully successful.

Maximum and aggregate limit of \$100,000 any one policy year

2. Legal Assistance

Legal assistance will be provided to the midwife when the midwife is called upon to appear before a coroner's inquest, or any special inquests or commissions as a result of the administration of professional treatments or the omission thereof by the Midwife. This agreement does not apply when the midwife is acting as an expert or a pure post-mortem witness before the coroner's inquest or any similar special inquests or commission.

Maximum and aggregate limit of \$100,000 any one policy year

3. Legal Expense Disciplinary Matters

The midwife will be indemnified for legal expenses solely pertaining to disciplinary matters as defined in the policy.

Maximum limit of \$25,000 any one policy year per midwife.

CLAIMS REPORTING TIPS

Following All RHA policies, these are some of the events that HIROC wants to know about promptly:

- The birth of an infant whose well-being is compromised or suspected of being compromised prior to, during, or at the time of birth, whether or not the compromise is as a result of midwifery care. Compromise could involve any of the following: neurological impairment or asphyxia, events leading to physical injury during the birth process, (e.g. shoulder dystocia) seizure activity, low Apgar scores, etc.
- Any receipt of Statement of Claim or Notice of Action (These are extremely time sensitive),
- Any receipt of verbal or written demand or request for compensation as a result of midwifery services provided
- Any threat or suspicion of a claim for alleged error, omission or act
- Request to access records ‘in anticipation’ of claim
- Any receipt of a demand to respond or appear before Chief Medical Examiner, College of Manitoba Midwives or any other authorized, investigating body in relation to capacity as a midwife
- Verbal complaint (such as dissatisfaction with care) that a midwife believes may result in a legal claim or CMM complaint
- Change in status of a reported incident/claim i.e. diagnosis of cerebral palsy after you have reported event to HIROC

You should:

- Be familiar with the RHA policies with respect to Claims and Incident reporting as well as Critical Incidents and Patient Safety.
- Notify the Risk manager of any critical/serious incident
- Know the Loss Control steps following any incident or adverse/unexpected outcome
- Assess the immediate patient care needs
- Document
- Locate and secure potential evidence
- Consider photographing placenta and umbilical cord if appearance is unusual
- Do not repair or return equipment until discussed with HIROC
- Contact HIROC if you need any assistance with reporting or understanding the issues of a claim or potential claim.
- Know the RHA guidelines with respect to disclosure. Call HIROC if you have any questions.
- Know that a Critical Incident Review and a claim or potential claim are two separate matters and must be investigated separately. You may have to tell your story more than once.
- Upon review of an incident, an adjuster or lawyer may be assigned to assist you and gather information. Be prepared to give a statement to the adjuster or legal counsel appointed by HIROC. This statement is not only necessary to determine liability; it could be invaluable for defense in the future.