



## UK Board of Healthcare Chaplaincy

### **Contingency Malpractice Insurance for Chaplains (aka Indemnity Insurance or E & O E Insurance)**

In July 2014, the UK Government introduced The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 which

requires registrants to have a professional indemnity arrangement in place as a condition of their registration. This directive means that all healthcare workers, dealing with patients will need public liability cover; both to protect the patient and to cover themselves in the case their practice is questioned.<sup>1</sup>

If a chaplain provides

- advice to clients/patients,
- handle patients' data,
- provide a professional service **or**
- are vulnerable to a claim of negligence because the professional advice fails to meet a client's expectation

then indemnity coverage is required for vicarious liability.

#### **What is “vicarious liability”?**

Vicarious liability means an employer will be liable for the acts or omissions of its employees and ensures a financial remedy can be given when something has gone wrong and harm caused. This would be through a negligence claim made against your employer for any work a chaplain undertakes in his/her job.<sup>2</sup>

#### **NHS Employees**

NHS employees would normally be covered by **NHS Indemnity** which provides “primary vicarious” indemnity coverage stating in its' Executive Summary:

The term health care professional includes hospital doctors, dentists, nurses, midwives, health visitors, pharmacy practitioners, registered ophthalmic or dispensing opticians (working in a hospital setting), members of professions

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<sup>1</sup> <https://www.unitetheunion.org/why-join/member-services/health-sector/contingent-medical-malpractice-cover> (retrieved 23 July 2024)

<sup>2</sup> Ibid

allied to medicine and dentistry, ambulance personnel, laboratory staff and relevant technicians.<sup>3</sup>

**Of note is that chaplains are “professionals in healthcare not healthcare professionals”.**

Chaplains working in the NHS need to check arrangements with their trust for vicarious liability. The provisions for vicarious liability are different in England, Scotland, Northern Ireland, and Wales.

If a chaplain is employed in private healthcare (e.g. a nursing home, GP practice, hospice), his/her employers may already have professional indemnity arrangements that will provide appropriate cover for all the relevant risks related to the chaplain’s job and scope of practice. Arrangements may vary between employers and it is the chaplain’s responsibility to check and see what vicarious liability is covered.

**Additional Indemnity Coverage e.g. CHCC Malpractice Insurance Coverage**

Alongside “vicarious liability” a chaplain may wish additional protection, in the unlikely event of your employer’s cover failing. Unite’s “Contingent Medical Malpractice” (CMM) scheme is such a policy and if a chaplain is a member of the College of Healthcare Chaplains (CHCC), additional coverage can be arranged through monthly/annual union dues.

Unite’s CMM coverage helps protect a chaplain professionally if a claim is brought against her/him by a client/patient, due to an [alleged] error they may have encountered whilst a chaplain was carrying out professional duties. CMM provides cover for claims made against a chaplain arising out of negligent errors or omissions committed by the chaplain in the course of his/her occupation or ‘good Samaritan’ acts’. It also covers a chaplain’s legal liability to pay compensation and costs/expenses in respect of accidental personal injury (including needle stick injuries which may result in HIV/Hep or damage to third party property).<sup>4</sup>

Unite’s CMM coverage is provided on a contingent basis. This means that a chaplain’s employer must have primary medical malpractice insurance and primary public liability cover in place. Unite’s CMM comes into operation to protect a chaplain should the chaplain’s employer’s primary cover fail. **Please note Unite’s CMM provides contingent cover only and does not cover private or self-employed work.**

**All chaplains are required to be covered by Indemnity Insurance in accordance with The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 if they are in the practice of providing professional spiritual care.**

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<sup>3</sup> <https://resolution.nhs.uk/wp-content/uploads/2018/10/NHS-Indemnity.pdf> (retrieved 23 July 2024)

<sup>4</sup> <https://www.unitetheunion.org/why-join/member-services/health-sector/contingent-medical-malpractice-cover> (retrieved 23 July 2024)