

Claims-Made Insurance Primer for Residents and Fellows Affected by Hahnemann Closure

On June 30, 2019, the Philadelphia Academic Health System (PAHS), LLC, and several of its subsidiaries, filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the District of Delaware. As a result of the bankruptcy, hundreds of residents and fellows were forcibly displaced from their training programs at Hahnemann University Hospital.

While employed, Hahnemann's physicians-in-training received medical professional liability coverage through the Philadelphia Academic Risk Retention Group, LLC (PA RRG). Under the PA RRG policy, residents and fellows were insured with claims-made coverage, which was originally set to terminate on Jan. 11, 2020 at 12:01 a.m. This policy was then extended to Feb. 11, 2020.

PAMED has now learned that **The Philadelphia Academic Risk Group, LLC (PA RRG) medical professional liability (MPL) claims-made policy, which was set to terminate on Jan.11 at 12:01 am, has again been extended!** Physicians who are covered by the PA RRG policy, which applied to both Hahnemann and St. Christopher's, will now have an additional thirty (30) days of MPL coverage. **With this extension, we are told that the PA RRG policy will terminate at 12:01 am on March 12, 2020.**

Upon termination of the claims-made policy, tail insurance (or its equivalent) is required to prevent a gap in coverage. Physicians are still encouraged to continue to obtain quotes for coverage after the March 12 termination date. If you have already received quotes or obtained coverage from alternate carriers, please contact your new or prospective carriers with this updated information.

Hahnemann was obligated under Pennsylvania law to guarantee the continued availability of suitable liability coverage (i.e., tail insurance) upon the termination of the claims-made policy. Unfortunately, however, Hahnemann's bankruptcy jeopardizes this tail insurance coverage.

This communication is directed to Hahnemann residents and fellows who were in training between Jan. 10, 2018 and Aug. 6, 2019. Due to Hahnemann's failure to guarantee continued tail insurance, you must act fast to prevent having a gap in your professional liability coverage. Gaps in coverage could potentially leave you exposed to uninsured malpractice claims, personal liability, and the risk of adverse action from medical licensing boards.

This document provides:

- Information regarding Pennsylvania's medical professional liability insurance requirements,
- A brief explanation of claims-made policies; and
- Suggested next steps to help physicians obtain insurance coverage after the end of the claims-made policy.

What Is Pennsylvania's State Law Requirement Regarding Medical Professional Liability Insurance for Residents and Fellows?

The short answer is that if a physician practices in Pennsylvania they must have insurance.

Physicians, including residents and fellows, providing health care services in the state are required to purchase medical professional liability insurance, or provide proof of insurance.ⁱ Proof of insurance must be provided to the Mcare within 60 days of the policy being issued.ⁱⁱ

What Is a Claims-Made Insurance Policy?

A claims-made insurance policy is one that provides coverage for claims made or reported during the policy period (i.e., between the effective date and the expiration date or termination of the policy).ⁱⁱⁱ

Unless the incident was reported to the insurance company before the coverage ended, a claims-made policy will not cover a claim reported after the end of the policy period even if the claim resulted from something that happened (i.e., an incident) before the coverage ended.

After the End of a Claims-Made the Policy, How Do You Maintain Coverage for Incidents That Occurred During Policy Period?

There are several ways to provide coverage for these incidents, including but not limited to:

- **A Standalone Tail Policy:** You can purchase a separate tail policy.
- **Prior Acts/Nose Coverage:** When a new policy is purchased, prior acts coverage (i.e., “nose” coverage) can be added for incidents that occurred from services you rendered while you were insured with your previous claims made carrier. The prior acts/nose coverage should be retroactive to the later of (i) your first date of employment with Hahnemann, or (ii) Jan. 11, 2018. The retroactive coverage should extend through your last day of clinical practice with Hahnemann.

An insurance agent or broker can help you determine what coverage solution would work best for you.

Once a health care provider has obtained coverage, the coverage must be reported to Mcare within 60-days; the coverage can be reported to Mcare by the health care provider, the insurer, or in a few cases by the agent on behalf of the insurance company.

If coverage is not reported or obtained, neither the insurance carrier nor Mcare will provide coverage for claims arising from an incident related to care provided during the policy period, but reported to the insurance company after the end of the policy period. The Mcare Act also provides for referral to the appropriate licensing board for disciplinary action.

What Is Considered A “Claim”?

Under most claims-made policies, coverage applies to claims or potential claims arising from any acts, omissions, occurrences or offenses committed by the insured.

Under some policies, a claim is defined as an explicit demand for compensation from an individual who has allegedly been harmed by care the insured provided or failed to provide.

A potential claim is generally defined as an event which an insured knows or reasonably should know is likely to result in a claim.

What Should Hahnemann Residents and Fellows Do Next?

- **Legal Representation:** An Ad Hoc Committee of displaced Hahnemann residents and fellows has been formed for purposes of engaging legal counsel to represent their interests in the Hahnemann bankruptcy proceedings, and any related court proceedings, specifically in relation to tail insurance coverage obligations. The American Medical Association (AMA) has agreed to underwrite the costs of this legal representation, at no cost to impacted residents and fellows. This Ad Hoc Committee of residents and fellows has engaged Jeremy W. Ryan of Potter Anderson Corroon. Residents and fellows who wish to be included in this representation, at no cost to you, should contact Mr. Ryan, as follows:

Jeremy W. Ryan
Potter Anderson Corroon

hahnemannresidents@potteranderson.com
(302) 984-6052

- **Inquire about coverage with your receiving institution.** Check with your new residency program to see whether they would be willing to purchase, or help you purchase, coverage for any incidents which may have occurred during your Hahnemann training program.
- **Submit Notice of Potential Claims to PA RRG:** Affected residents and fellows should consider providing the PA RRG with a notice of potential claims as soon as possible, even if a claim does not yet exist. Giving PA RRG notice of potential claims will help to ensure that a related claim will be covered under the existing claims-made policy, even if the claim is not presented until after the claims-made policy terminates.

Be prepared to provide the following information:

- Patient name
- Patient date of birth or approximate age
- date of admission or date of treatment
- the event that occurred that may result in the potential claim.

Submit potential claims to:

Linda J. Ramsey, ARM, CPHRM, CHC
PAHS Assistant General Counsel & VP of Insurance Portfolio
(610) 812-2417 (cell)
Linda.Ramsey@americanacademic.com

- **Contact a broker or a medical professional liability insurance company immediately to obtain a quote for coverage.** Although working with a broker or agent is not required, these individuals should be able to efficiently guide you through the process of finding the appropriate type and amount of coverage.

The process for obtaining a quote requires the completion of an application and submitting claims histories. The process is not complex, but once your completed application is submitted, it can take up to two weeks to get a premium quote from the carriers.

You will need to provide a loss run to apply for tail coverage. For coverage under the PARRG, you can email a request to Terry Donahue at Sedgwick, therese.donahue@sedgwick.com and, if you were employed by Tenet Business Services Corporation, include Keri Kegley at keri.kegley@tenethealth.com.

For your convenience, contact information for a few insurance brokers/agents and insurance companies is provided in the table below:

Insurance Brokers/Agents*

Edge Professional Liability Services

Contact: Peter Leone
49 Clubb St
Bloomfield, NJ 07003
Mobile: (973) 652-4522
Fax: (973) 957-0041, Attn Peter Leone
peterleone@edgepro.net

	edgepro.net/hahnmann-residents-only/
Gallagher	<p>Contact: Peter H. Reilly 470 Atlantic Ave Boston, MA 02110 www.ajg.com</p> <p>*Important note: Gallagher is working with the carrier MedPro, who has indicated that it is willing to provide coverage to both Mcare eligibles and ineligibles. Gallagher, the brokerage, is the main point of contact.</p> <p>In order to receive a quote, please send an email with “Hahnmann resident tail malpractice insurance quote” in the subject line to Peter Reilly@ajg.com and cc: James McNitt@rpsins.com. Be sure to include any information you have gathered, including the loss run report.</p>
The Glatfelter Agency	<p>Contact: Jeffrey Kile 221 W Philadelphia St, Suite 400E York, PA 17401 Toll-free: (800) 632-1884 www.tga-ins.com</p>
HUB International New England, LLC	<p>Contact: Pat Nolan 1489 Baltimore Pike, Ste 105 Springfield, PA 19064 Office: (484) 840-7365 Mobile: (484) 620-0440 Toll-free: (800) 228-0481 Fax: (610) 284-3823 pat.nolen@hubinternational.com hubinternational.com</p>
JM Patton Associates Inc.	<p>Contact: Anthony Mirarchi, Principal 1520 Locust Street, Ste. 400 Philadelphia, PA 19102 Phone: (215) 985-5818 Fax: (215) 985-5918 www.JMPatton.com AnthonyM@JMPatton.com</p>
Joseph A. Britton Agency, Inc.	<p>200 Sheffield St, Ste 310 Mountainside, NJ 07092 (908) 654-6464 (800) 462-3401 www.josephbrittonagency.com/</p>

PIER Practice Solutions	Contact: Nick Belutty, Vice President of Financial Services & Risk Management 901 West Main St, Suite 307 Freehold, NJ 07728 (484) 678-2822 nbelutty@pierps.com
Risk Strategies Company	National Health Care Practice 555 East Lancaster Ave, Ste 650 Radnor, PA 19807 (800) 508-1355 www.risk-strategies.com/
Insurance Companies*	
ISMIE Mutual Insurance Company	20 N Michigan Ave, Ste 700 Chicago, IL 60602 (800) 782-4767 underwriting@ismie.com www.ismie.com
Positive Physicians	850 Cassatt Rd 100 Berwyn Park, Ste 220 Berwyn, PA 19312 (610) 644-5262 underwriter@positivephysicians.com https://positivephysicians.com/
The Pennsylvania Professional Liability Joint Underwriting Association	1777 Sentry Parkway West VEVA #14, Ste 300 Blue Bell, PA 19422 Phone: (610) 828-8890 Fax: (610) 825-0688 Email: Insurance@PAJUA.com For additional information, visit: www.pajua.com/doyouneedcoverage.html

* *The inclusion of these insurance brokers, agents, and companies do not constitute or imply endorsement, recommendation, or favoring by the Pennsylvania Medical Society, its Trustees or employees.*

For additional information about the Hahnemann closure, please visit www.pamedsoc.org/hahnemann.

ⁱ 40 P.S. 1303.711(a).

ⁱⁱ 40 P.S. 1303.711(b).

ⁱⁱⁱ 40 P.S. 1303.702 (see definition of claims made).