



National Board for Certified Counselors Professional Liability & Risk Management: What Counselors Need to Know

OBJECTIVES

- Participants will learn about NBCC and its role in standards and certification processes in ethics and liability matters.
- Participants will learn about the various risk situations that may require professional liability insurance.
- Participants will learn about the value of securing and maintaining professional liability insurance through Lockton.

OVERVIEW

Dr. Thomas Clawson, President and CEO

National Board for Certified Counselors, Inc. and Affiliates

History of NBCC

The National Board for Certified Counselors began by creating a registry for counselors, and it was an experiment. Counselors didn't know what certification was for the most part; school counselors did. School counselors were either certified or licensed in their states. But people who are doing private practice just hung out a shingle and did private practice. What we did in the beginning was create an organization that those people could come to be recognized and show the world that they had something of quality to give to the counseling profession and to clients.

Counseling as a Helping Profession

Most of you ask, "What can I do good?" It's probably the reason you got into counseling in the first place. One of the ways to do good is to take a look at NBCC and how you can do good with us. How can you do good? By getting laws passed that help people get access to care. How can you do good? By being part of a team that creates an examination that protects the public. How can you do good? By trying to find laws that can give us the ability to work in places that we couldn't work and help people before. How can you do good? By looking at what we are doing around the world, with children, with broken families, with the 450 million people who are not served, or who are underserved in mental health needs. That's what we're doing, and we need you to use that need that you have to do good to help us to continue to do more good.

PROFESSIONAL GROWTH AND ADVOCACY

Dr. Victoria Kress, Director of Advocacy

National Board for Certified Counselors, Inc. and Affiliates

NBCC and Advocacy

Funding and Grants—Minority Fellowship Program (MFP)

One of the ways that NBCC advocates for the profession is through its Minority Fellowship Training Program. NBCC has been able to work with SAMHSA [Substance Abuse and Mental Health Services Administration, samhsa.gov] and the federal government to secure millions of dollars that has gone into scholarship programs that helps support counselors who work with minority populations, people who have addictions, and veterans.

Licensure Portability

Licensure and portability is another area where NBCC has demonstrated itself as a leader. Licensure portability has to do with the ability of a counselor to move from one state to another and to be able to practice. What we know is that many counselors struggle with moving to different states and being able to practice as counselors. NBCC has heard these concerns and takes them very seriously. What we have done is work with three other associations to put together a national portability plan. As part of this portability plan, we are working to ensure that counselors will have an easier time getting licensed as they move from state to state.

NBCC AND ETHICS

One of the values of board certification through NBCC is that it represents the counselor's commitment to the provision of services that are consistent with specific professional standards.

NBCC Ethics Policy

NBCC's ethics policies were not only designed by counseling professionals. The review process is also overseen by professional counselors.

Benefits of Ethics Reviews

This is a tremendous benefit to board-certified counselors who may be interviewing for specific positions, communicating with potential clients or other professionals who may be providing referrals.

Accountability

In some cases, these people may not have specific knowledge of the counseling profession or they may have apprehensions about the counseling process. However, the knowledge that a counselor is accountable for adhering to published professional standards and that there is an established mechanism to review such concerns may help alleviate such worries.

Ethical Disclosures

The review of submitted grievances is not the only method NBCC employs in order to promote the provision of quality services. All applicants and board-certified counselors are required to make disclosures for any past or current required disclosure matter. Required disclosure matters include criminal charges, legal matters relating to business or occupational activities, charges filed with any government entity or professional organization, employment terminations due to conduct, and probation or removal from graduate programs for reasons unrelated to grades. Such disclosures must be made in writing either at the time of application, for any matters occurring in the past, or within 60 days of the counselor's knowledge of the charge or complaint. Applicants and board-certified counselors are also required to submit relevant documentation.

Ethics Matters

NBCC is also authorized to initiate ethics complaints against applicants or certificants in appropriate cases. Regardless of that cause of initiation—submitted ethics grievances, counselor disclosures, or NBCC-initiated complaints—all ethics matters are processed in accordance with NBCC's ethics policies.

Policies and Procedures

These policies and procedures are designed to promote the communication of perspectives which are relevant to the professional's conduct. NBCC publishes these ethics case procedures on its website, and all parties to an ethics review are held to the process.

And in more than 30 years of providing board certifications and reviewing ethics matters, NBCC appreciates the ranging types of matters that counselors may face, especially when providing services, as well as the challenges of responding to ethical dilemmas. There is little doubt that with the increased complexity of service provision, including those through distance means, it is critical for practicing counselors to obtain and maintain professional liability insurance.

LIABILITY INSURANCE—Why Is It Important?

Why is it important to have and maintain professional liability insurance?

- Insurance offers protection against counselor errors and omissions.
- Insurance protects counselors against claims and damages.
- Insurance provides risk management services.
- Insurance provides broad protection.
- Insurance minimizes potential costs.
- Agency insurance is not enough; counselors need their own liability policy as it protects them personally.

Agency Insurance Is Not Enough

Most agencies where counselors work have a general insurance policy. The policies are primarily intended to cover the agency, not individuals who work at the agency. Since these general policies do not necessarily protect individual counselors, counselors need an insurance policy that is exclusively theirs; one that protects them.

There are often limitations on your employer-provided professional liability coverage, and it may not insure you against complaints filed against you with your state's licensing board. Counselors are much more likely to experience a complaint filed against them to their licensing board than a malpractice claim.

Protection Against Errors and Omissions

Liability insurance protects counselors from real or alleged errors that may occur. Counseling is not an exact science, and it is easy for counselors to make mistakes. A minor error can invite serious risks and consequences. Counselors often think about the most serious situation when they consider insurance claims, but there are many minor actions and daily mistakes that invite the need for professional liability insurance.

Errors and omissions insurance is meant to protect counselors involved in lawsuits that allege fault on the part of the counselor. This could mean allegedly leaving out important information or providing the client with incorrect information, which ultimately led to harm to the client. As an example, this may take the form of failing to notice the symptoms of a disorder a client may have. Errors could also refer to offering incorrect guidance, such as telling someone to ignore a situation when it is actually problematic.

Errors and omissions insurance coverage includes misrepresentation when a professional is accused of misleading a client by telling him or her a knowingly false and incorrect statement.

Negligence is another type of error. For example, when a counselor who has been entrusted with the care of a client neglects his or her job and the client suffers harm, he or she may have neglected the client.

Protection Against Claims and Damages

In the case that you lose a large claim, you may face damages. These damages may include punitive damages that can add up to hundreds of thousands—even millions—of dollars. Professional liability insurance absorbs that cost so that counselors can maintain financial stability.

Insurance applies to the services that lead to loss due to the actions taken on the part of the insured counselor. Examples can include providing a client with advice that is incorrect. The client seeking damages claims that the counselor's actions—as a professional—have harmed him or her.

Damages can also be punitive, meaning they are applied to the court in order to prevent the individual from engaging in the erroneous activity or omission in the future, as well as discouraging others from following in their footsteps.

Provides Risk Management Services

Professional liability insurance also includes risk-management services. When a counselor is unsure of an action to take, a representative from the insurance company can review standards and practices and suggest courses of action that reduce unnecessary liability. This service is a benefit to the counselor, counseling agencies and the insurance company. The more education the insurance company can provide to the counselor, the less risk it incurs, and the insurance companies are compelled to offer support to their policy holders.

Provides Broad Protection

Many counselors supervise or work with others whose mistakes can impact their practice. It is not uncommon that when something goes wrong, a counselor may be pulled into a liability situation. When a client or patient is injured, everyone involved in the case is typically named in the lawsuit, including counselors. Even if you adhere to all standards and protocols, you could still be accused of a wrongdoing and named in a malpractice lawsuit or a licensing board complaint. Even if you do everything right, you could be placed in a position of needing to defend yourself. Further, professional liability insurance also provides coverage for seemingly minor issues. Counselors need to protect themselves against potential disputes of all sizes.

Minimizes Costs

Purchasing professional liability insurance is more cost effective than the costs that could be incurred without it. Most counselors who face legal and ethical situations with a licensure board are not found to be guilty. Yet even in these situations when a counselor has done nothing wrong, he or she can benefit from legal counsel.

Hiring a lawyer is expensive, and costs can skyrocket the longer a trial lasts. Liability insurance offers counselors legal counsel and representation at no additional cost, protecting the counselor from financial distress.

Liability Insurance Overview and Summary

In summary:

- The cost of liability insurance is worth the benefit. Many counselors opt to go without professional liability insurance as a cost-saving measure, and that choice can backfire. If something goes wrong, whether it is the counselor's fault or just an allegation, the costs are far greater than an annual insurance premium.
- Counselors who cover themselves with professional liability insurance give themselves peace of mind, and they know that they are covered should anything go wrong.
- Professional liability insurance covers court costs involved in a lawsuit or legal matter, such as a licensure board investigation, as well as any settlement costs that are incurred. Paying for such services out of pocket can be very expensive.
- Professional liability insurance will financially protect the counselor whether the negligence is simply alleged or real. Whether you have to pay a settlement or simply lose out on legal fees, the goal of the insurer is to provide you with a safety net to fall back on.

To receive your free Liability Insurance quote, go to NBCC.org/insurance:

When you click on the **Receive a free quote today!** link, you'll be taken to the Lockton Affinity website.

There, follow the simple instructions:

- Start by selecting your status;
- Next, choose your state using the dropdown menu;
- Then, check off your area of study;

- Followed by the effective date of coverage using the calendar attachment;
- Finally, you'll hit the **Get a Quick Quote** button. Your immediate response will display your coverage rate and include the link to apply for coverage.

Testimonials

Jason Branch

My name is Jason Branch, and I am a third-year counseling education and supervision doctoral student at Auburn University. I am also a 2016 Minority Fellow for NBCC.

As a young professional, I've been paying so much money on liability insurance, and I decided it was time to make a switch. Recently I found out about NBCC's student liability insurance for \$18.

Once I found out about that, it was a no-brainer. So being a 2016 Minority Fellow, I was able to get so many resources from NBCC, and it worked out even better than I expected. So they not only support me as a student—they support me as a professional as well.

Stephanie Sedall

Hi. My name is Stephanie Sedall. I am a graduate student pursuing my master's degree in clinical mental health counseling. I was really happy to find out about the NBCC's student liabilities insurance.

As a graduate student, I am on a really tight budget and spending \$90-\$100 to join an association just to get insurance is not an option for me. The NBCC offers the cheapest insurance out there. There's no joiner fees or hidden costs, just inexpensive insurance coverage. I know I have the best coverage through NBCC. The fact that it is so inexpensive is just an added bonus.

I am worry-free and stress-free knowing I have student liabilities insurance through NBCC—also knowing how supportive and loyal they are of students and professionals is extremely comforting to me. Thank you NBCC.

Thank you

Thank you for reviewing this learning module! In this module we provided:

- Information about NBCC;
- The importance of ethics reviews;
- The importance of maintaining professional liability insurance; and
- The value of connecting with NBCC to get Lockton professional liability insurance.

Please visit our webpage at [NBCC.org/insurance](https://www.nbcc.org/insurance) to learn more today!