

# Professional Employer Organization

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When insuring a qualified healthcare provider, will the provisions of the Indiana Medical Malpractice Act extend to provide professional liability protection to employees, who have a dual employment relationship with the healthcare provider and PEO?

*Amy Strati, Chief Legal Counsel, Indiana Department of Insurance...April 28, 2006.*

*In 2005, Indiana passed IC 27-16 regarding PEO's...effective December 31, 2005.*

*Pursuant to IC 27-16-2-5 the person is co-employed by the client (in our hypothetical...the health facility) and the PEO.*

*Under IC 27-16-7-4 the client (health facility) is responsible for the professional acts of the co-employee.*

*However, this responsibility can be altered by specific contract language (IC 27-16-7-2).*

*So...generally speaking the person can be covered by the facility and included in the Patients Compensation Fund coverage just like other employees.*

In summary, the professional liability provided by the company insuring hospital or surgery center and the Indiana Medical Malpractice Act will extend to include the employees of the healthcare provider and PEO; however, protection is not extended to the PEO itself.

Please submit copies of contractual agreements for risk management review, including agreements containing indemnification, hold harmless or additional insured requirements.

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