

## Website of the Month: NAPLIA

By Susan B. Anders

The North American Professional Liability Insurance Agency (NAPLIA) is an independent insurance provider specializing in delivering professional liability coverage for accountants and investment advisors. Its mission includes providing educational materials on risk management strategies for avoiding claims, and it offers e-mail alerts on current events related to risk management. Its website, <http://www.naplia.com>, presents a variety of articles, white papers, sample client engagement letters, and other resources relevant to accounting practitioners.

The site's homepage and main pages share a common menu, with tabs for "about us," "programs," "resources," "support," "partners," and "contacts." The materials described in this review can be found under the resources tab, which is further divided into separate sections for accountants and investment advisors. Each section features short industry articles that contain links to related internal NAPLIA resources and external websites, as well as longer white papers that users can download as PDFs.

### Resources for Accountants

The NAPLIA website offers several articles and white papers on avoiding malpractice claims and developing client record retention policies, as well as on other risk management considerations. For example, "Top Ten Causes of Professional Liability Claims" identifies the most common sources of malpractice claims and provides suggestions for eluding them (<http://naplia.com/resources/top-ten-cause-malpractice.html>). The article suggests that client-specific issues, such as having a poor relationship with a client, can be remedied by providing good service and maintaining regular communication. CPAs



should avoid "bad clients" by implementing a careful screening process; however, if that fails, they should be prepared to terminate relationships with such clients. (See the AICPA Code of Professional Conduct for how to handle such matters.) Furthermore, using engagement letters to properly define the scope of service can help CPAs avoid misunderstandings and unmet expectations.

Several articles cover questions related to retention of client records—how long to

retain the records, maintaining original documents when electronic files exist, and whether engagement letters should address file retention. E-mail should be covered in a firm's documentation policy, including the importance of carefully composing all electronic communication and deciding whether to preserve or destroy such communication. NAPLIA recommends providing clients with receipts for their original documents and offers accountants a sample outline of a file retention policy.

Many CPAs rightly take pride in their service efforts and their participation on the board of directors for community organizations. “Evaluating Your Exposure as a Director or Officer” explains that serving on the board of a client organization might be considered a conflict of interest from an insurance perspective (<http://www.naplia.com/resources/evaluating-director-exposure.html>). Standard errors and omissions liability policies do not usually cover a CPA’s role as an officer or director, and they often contain an “outside interest” exclusion. The article discusses examples of standard policy wording and describes each level of coverage for professional services while the CPA serves on the board of directors. In addition, CPAs should remain aware of the level of protection that community organizations provide for their directors and officers, as well as any specific exceptions or exclusions from coverage.

“Mitigating Risk During Succession” provides examples of three sources of risk created by firm succession: firm culture and personalities, firm applications and processes, and employee benefits and retirement plans (<http://www.naplia.com/resources/mitigating-risk-during-succession.html>). Firm culture addresses leadership style, ethics, and education—for example, a shift from face-to-face visits with clients to technological communication tools. The use of engagement letters, cloud computing, and document management falls under firm processes; changes in these applications can create new risks for the firm. Reductions in employee benefits and retirement plans have historically resulted in employment practice claims, rather than professional liability claims, but they are still important considerations in succession planning.

One white paper, “Responding to Subpoenas and Summonses: An Accountant’s Guide for Understanding and Response,” discusses five basic principles for dealing with subpoenas, such as centralizing the process of responding to subpoenas, discussing the matter with a client unless the subpoena forbids it, and staying within the scope of the subpoena (<http://blog.naplia.com/accountants-guide-responding-to-subpoenas>). The difference between simple and complex subpoenas is described, along with advice on when

CPAs need to contact an attorney or their insurance provider.

Another white paper, “Information Security and Cyber Liability: Essential Steps to Protecting Your Practice,” identifies the potential areas of risk exposure, the importance of information security policies, and

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the use of insurance to hedge exposure (<http://blog.naplia.com/information-security-white-paper>). It reviews a case study of a firm that appeared to have excellent policies but still suffered an unexpected breach.

### Resources for Investment Advisors

“Investment Advisor ERISA [Employee Retirement Income Security Act] Bonds: An Overview” compares an ERISA bond, which recompenses an investment advisor’s client, with a fidelity bond, which provides loss coverage to the advisor (<http://www.naplia.com/resources/advisor-erisa-bond-overview.html>). An ERISA bond also protects an employee benefit plan from fraud or dishonesty committed by plan managers. Whether investment advisors need to be covered by ERISA bonds is the subject of some dispute; this article suggests that bonded advisors have a marketing edge.

In a related article, “How to Use Your Insurance as a Marketing Tool,” investment advisors are encouraged to consider using professional liability insurance coverage to demonstrate their trustworthiness to prospective and continuing clients (<http://www.naplia.com/resources/insurance-marketing-tool.html>). Maintaining appropriate protection shows that investment advisors understand their own fiduciary exposure while creating transparency and confidence.

“The Rising Need for ERISA Fiduciary Liability Protection for TPAs and Administrative Service Providers to Retirement Plans” is a white paper that addresses situations where third-party administrators and other service providers can be considered to have fiduciary responsibility for employee retirement plans ([http://blog.naplia.com/fiduciary\\_liability\\_TPA](http://blog.naplia.com/fiduciary_liability_TPA)). Third-party administrators are held to high performance standards under ERISA, and their fiduciary status has been determined by courts to be based upon the actual functions performed, not job title. Some of the ways in which third-party administrators have unintentionally become fiduciaries include creating a situation where there is heavy reliance on the administrator’s advice, providing unsolicited advice to the plan sponsor, and offering investment guidance to plan participants.

### Sample Engagement Letters

One of the most interesting resources on the NAPLIA website is a collection of engagement letters covering a variety of accounting practice areas. Users can download these free sample letters individually or as one comprehensive set; they cover audits, compilations, reviews, tax returns, and a combined audit and tax engagement. Some unique offerings include bookkeeping services, a “negative engagement letter,” and a letter to a successor accountant. A related website recently established by NAPLIA, <http://www.engagementletters.com>, makes the search for engagement letters easier.

It should be noted that NAPLIA provides a very prominent disclaimer stating that its engagement letters are intended for general educational purposes and that potential users should seek the advice of an attorney. Potential users should also note that the AICPA’s professional standards require the use of engagement letters. The AICPA website provides guidance on the use of engagement letters, access to purchase examples of engagement letters, and access to free (but disclaimed) samples of tax and personal financial planning engagement letters. □

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