



A GUIDE TO PURCHASING MEDICAL PROFESSIONAL LIABILITY INSURANCE

————— PROTECT YOUR CAREER AND YOUR REPUTATION —————

MEDICAL PROFESSIONAL LIABILITY INSURANCE

You've invested a great deal of time and effort in your profession. Medical professional liability insurance is a vital component of protecting your career and your reputation. Choosing the company and the coverage that are right for you deserves careful consideration and a thorough understanding of your needs and options.

This guide provides important information about medical professional liability insurance—whether you are just beginning your medical career, are launching a practice, or simply want to learn more.

WHAT IS IT AND WHY DO I NEED IT?

Sometimes adverse outcomes happen despite your best efforts, and a lawsuit can be a devastating experience. Medical professional liability insurance protects you and your assets in the event of a claim or suit.

Medical professional liability insurance is designed to cover you for professional services you render or, in some cases, fail to render. You'll want to make sure that the company and the coverage you choose will fit your needs and provide you with the best possible protection. Your insurance policy should clearly define what professional services it covers.

TYPES OF LIABILITY COVERAGE

There are two types of liability coverage:

- **Direct liability**, which covers you for the services you personally provide.
- **Vicarious liability**, which covers people for whom you may be legally liable if you are providing supervision and direction (e.g., employees, students, volunteers).

Depending on your particular exposure, you may need additional coverages, including but not limited to general liability for premises or damage to property of others, employer liability, or Coverys Protection Plus, which includes cyber/regulatory liability coverage. Additionally, statutory requirements vary by state and exposure. Your agent can assist you in navigating these requirements and can design a comprehensive coverage policy specific to your needs.

COVERAGE FORMS

The three coverage forms provide basically the same coverage; however, each has a different claim “trigger,” or the determination of how a claim attaches to a policy.

UNDERSTANDING YOUR INSURANCE POLICY

Claims-Made Coverage

In claims-made coverage, coverage is triggered by the date the claim is first reported to the company. The claim is attached to the policy in effect on the date the claim is reported and is governed by the policy terms, including limits, in effect at that time. Claims-made coverage has a retroactive date or start of the coverage period. It also has a policy expiration date or endpoint of coverage. Unless it is renewed or replaced by coverage with a different carrier, you will not have insurance protection for claims made as the result of care rendered from the retroactive date to the expiration date of your last insurance policy. To prevent that from occurring, claims-made coverage typically offers you the ability to purchase or, if you meet certain eligibility criteria, have an extended reporting period endorsement (known as “tail” coverage) attached to your expiring policy. This will keep the policy terms in place for protection for either an indefinite or specific period of time after the insurance policy expires.

Modified Claims-Made Coverage

Modified claims-made coverage offers prepaid tail coverage on a claims-made basis. Coverage is triggered in the same manner as in claims-made coverage, but this coverage provides you with automatic tail coverage after the insurance policy expires. Please note that the tail coverage provided is for an indefinite reporting period at no additional premium.

Occurrence Coverage

In occurrence coverage, the policy responds to a claim if the covered professional services at issue were rendered during the policy period, irrespective of when the claim is reported. As such, occurrence coverage does not require any tail or extended reporting period endorsement after the end of the policy period.

Insurance policies can be challenging or confusing, especially when filled with unfamiliar legal terminology. However, reading and understanding your insurance policy is essential. It explains what is covered and what is not, as well as who is covered and who is not. It’s helpful to familiarize yourself with the following sections in your policy:

- Insuring language
- Coverage territory
- Conditions
- Limits of coverage
- Exclusions
- Definitions
- Consent to settle
- State-specific or other endorsements that may modify the coverage outlined in the main policy

Understanding these details will help ensure that you are getting the protection you need. If you have questions regarding your policy, you should contact your insurance agent or carrier.

OBTAINING COVERAGE

Several types of insurance companies and entities provide medical professional liability insurance. If you are an independent practitioner, you will be responsible for securing your medical professional liability insurance coverage. The vast majority of independent practitioners use coverage offered through traditional insurance carriers.

If you are an employed healthcare practitioner, your employer may provide coverage that applies to services rendered within the scope of your employment. Depending on a number of factors, including the size of your employer, your coverage will be provided by your employer through traditional or nontraditional insurance carriers.

Traditional Insurance Companies

Traditional insurance companies are licensed and regulated by state governmental agencies that routinely review the financial strength and business practices of the insurance companies domiciled in their state. These companies pay state premium taxes and assessments and, as such, allow access for their insureds in state guaranty funds in the event the companies no longer have the financial strength to meet their obligations. Insurance coverage offered by a traditional insurance company is purchased through an appointed insurance agent or directly from an admitted insurance company in the commercial market. Admitted insurers are regulated by every state in which they are licensed.

Nontraditional Insurance Entities

Nontraditional insurance entities have the advantage of flexibility in terms of financial requirements and coverage options because they are not monitored by governmental agencies to the same degree as traditional insurers. They don't necessarily pay the same taxes and assessments as traditional insurance companies, and, importantly, their policyholders may not have access to state guaranty funds in the event they can no longer fulfill their financial obligations under the terms of coverage. Some examples of nontraditional insurance entities are:

- **Captive Insurance Company:** A captive insurer can be formed solely for a specific entity (eg, a hospital system that includes multiple hospitals and physician practices) or a group of unrelated entities and may handle claims and services through a third-party administrator.
- **Risk Retention Group:** A risk retention group ("RRG") is formed under the federal Liability Risk Retention Act of 1986 and is similar to a captive insurance company in that it is formed for a specific entity or group of homogeneous risks. Although largely not subject to state requirements other than its state of domicile, because an RRG is not an admitted carrier, its member policyholders are not eligible for any state guaranty funds.
- **Risk Purchasing Group:** A risk purchasing group ("RPG") is formed under the federal Liability Risk Retention Act of 1986 and allows a group of businesses with similar risks to join together to purchase insurance as a group. The group may purchase traditional or nontraditional coverage.
- **Self-Insurance:** Self-insurance allows an entity to establish and administer its own insurance fund without forming a specific company to do so.
- **Surplus Lines Insurance Company:** A surplus lines insurance company, or a nonadmitted insurer, is typically not licensed in any state except the state in which it is domiciled. Coverage is procured through brokers and covers hard-to-place or unique risks. Surplus lines insurers are regulated by their state of domicile and are free from form and rate filing requirements imposed on admitted insurers.

I AM BUYING MY OWN LIABILITY COVERAGE. WHAT DO I NEED TO KNOW?

MY EMPLOYER IS COVERING ME. WHAT DO I NEED TO KNOW?

When selecting an insurance provider, consider the following:

- What type of insurance carrier meets your needs?
- What is the carrier's A.M. Best rating?
- Is the insurance carrier financially stable?
- What coverage forms are available?
- What ancillary coverages (e.g., cyber liability) are included in your policy?
- Does the carrier need to obtain your consent prior to settling a claim against you?
- If you own a medical professional corporation, how can you provide coverage for this entity?
- Are your employees covered as part of your policy?
- What is the coverage territory?
- What are appropriate limits of liability?

As an employee, it is important that you understand the scope and type of insurance coverage that is provided by your employer. Consider the following:

- What type of insurance carrier is providing the coverage?
- What type of coverage form applies to you?
- What are your limits of liability?
- Are your limits separate or shared with everyone covered by the employer's policy?
- Does your employer need to obtain your consent prior to settling a claim against you?
- What happens to your coverage if you leave employment?
- Does the coverage apply to medical services you may provide outside of the scope of your employment?

RISK MANAGEMENT AND PATIENT SAFETY EDUCATION

Healthcare providers who place an emphasis on proactive risk management strategies, quality outcomes, and patient safety will improve patient care as well as benefit financially in today's healthcare environment. It is important to choose an insurance carrier that is committed to providing you with solutions focused on increasing patient safety, improving patient care, and decreasing medical liability insurance claims.

When choosing a carrier, consider whether it offers you the following benefits:

- **Consultation:** Personalized consultative services will help you implement best practices and identify your unique risk challenges and opportunities. Services to look for include:

Ideally, you should choose an insurance carrier that offers comprehensive products and services designed to simplify the demands of healthcare delivery in a busy practice.

- A designated consultant
- Risk management service plan
- Risk assessments
- Onsite education
- Action plan support
- **Resources:** Comprehensive products and services designed to simplify the demands in healthcare can help optimize your practice. Resources to look for include:
 - Helpline
 - News updates
 - Risk management newsletters
 - Risk management manuals
 - White papers
- **Education:** When assessing a carrier's educational program offerings, be sure to look for options that fit different learning styles and time constraints. Examples of educational offerings may include:
 - Webinars-on-demand
 - Live seminars
 - Educational programs
 - Educational materials and manuals
 - Online learning with CME credits

The information in this document is intended to provide general guidelines. It is not intended and should not be construed as legal or medical advice. For advice on your insurance policy, always consult with an attorney.

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