Medical Professional Liability Insurance

Limiting Cost While Maximizing Value

Urgent message: Liability insurance premiums continue to rise across the spectrum of medical practice environments. Urgent care practitioners can maximize the value of every premium dollar spent by understanding whom and what the policy actually covers.

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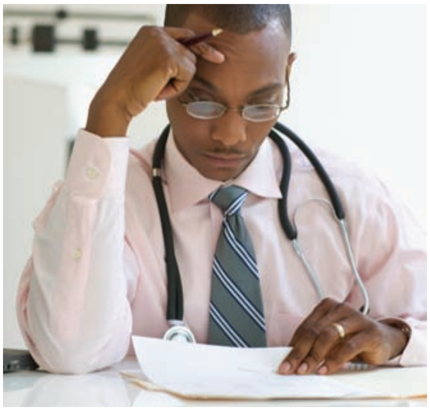
One of the more important and costly aspects of running an urgent care center is the insurance coverage needed to protect the center and the medical staff working there. In recent years, all medical facilities have been hit hard by rising medical professional liability insurance premiums; in many cases, these higher premiums are coupled with increases in deductibles or self-insured retentions and new restrictive exclusions.



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And yet, how many of these same facilities have actually researched how to minimize those increases; how to transfer the financial responsibility to the correct party; which exclusions apply, and how those exclusions might affect their coverage? And is there a staff member with the expertise to negotiate and understand what the practice is purchasing? Medical professional liability is not just about limits and premiums.

An urgent care practice can maximize the benefit of the premium dollars being spent by carefully examining and fine-tuning the professional liability/medical malpractice insurance program (not just the policy). The importance of knowing whom and what the insurance program is covering cannot be over-emphasized.

Key Questions

There are too many nuances to medical malpractice insurance to address them all here, but this article will take a look at some of the major issues.

First let's look at the key questions regarding the individuals to be insured:

- Are they independent contractors or employees? Full or part time?
- Do they already carry medical liability under their own name, or under a different organization?
- Do they need to be listed (and paid for) under your policy?
- Do you have residents working at the facility?
- Is there a contract with another organization (educational institution, hospital etc.) that requires *them* to insure and indemnify your clinic for those residents?
- Is your current carrier aware of these relationships and any "hold harmless" agreements?
- Have you asked for, saved, and submitted copies of certificates of insurance for those medical profes-

sionals who already carry their own professional liability insurance to your medical liability insurance carrier?

Answers to these questions will help determine the adequacy of the insurance protection afforded to various individuals and will aid in the tailoring of needed insurance coverage.

Carefully examine all employment or independent contractor agreements to see what they stipulate insofar as your responsibility to insure each party. Avoid duplicating coverage or offering coverage unnecessarily, and be sure “Other Insurance” provisions of the various policies work in concert with each other.

Once you have correctly identified who is to be insured under your program, it’s time to examine how they should be covered.

Organize each person by job classification and hours. Many insurance carriers will allow you to set a separate per-individual coverage limit for those employees that have a higher degree of responsibility (i.e., risk).

Some employees—especially those make some medical decisions but whose basic responsibilities are administrative in nature—can be covered by a shared limit. The rationale for this approach is simple: By providing the higher-risk employees with their own limits, you are protecting everyone else’s coverage. You are not going to dilute the organization’s protection with one or two claims associated with a high-risk position. At the same time, those with a lesser degree of risk do not need to have a separate—and more costly—limit in place. A shared limit of liability is often sufficient to cover them and the organization.

By correctly classifying who is to be insured and on what basis, many businesses have been able to maximize the coverage they buy while minimizing the dollars spent to get that coverage.

Deductibles vs. SIRs

Next, let’s look at the too infrequently examined but very important role of the deductible or self-insured retention (SIR).

In many states, there is little regulation concerning deductibles and SIRs. In states that do allow them, many insureds do not know the difference between the two and therefore never question it.

With a deductible, the insurance company pays the claim and associated expenses from “dollar one” and then asks you to reimburse them for the amount of the deductible. In effect, they are playing with your money.

With an SIR, the policyholder handles the claims and is responsible for paying any amount under the SIR level (a very simplified explanation). Once that dollar amount has been spent, the insurance company is responsible.

The difference is very important in the handling of lower-valued claims. For example, when the insurance company settles a claim for an amount that is lower than the urgent care facility’s deductible, is it out of necessity or because it was less expensive to give away your money than to investigate and fight the claim with their own?

An SIR allows you or your third-party administrator to investigate and fight claims that might otherwise be paid. Obviously this saves you money now; by keeping those claims out of your claims history, however, it can also save you money in subsequent years, as well.

These aspects of your medical professional liability insurance represent just the tip of the iceberg. Some fairly common exclusions include:

- abuse/molestation
- harassment
- unfair discrimination
- wrongful discharge
- license revocation
- liability for acts while under the influence of alcohol or drugs
- punitive damages

If your policy contains some or all of these exclusions, you should be aware that there are policies available that don’t. And some conditions and exclusions can be negotiated out of your policy.

Something else to bear in mind: Under some policies, an insured has the right to deny the insurance carrier’s move to settle a claim. This can be very important to a medical practitioner who wants (and needs) to safeguard his or her professional reputation.

The topic is complex. If you or your clinic’s business administrator is not familiar with these concepts, it may be worthwhile to consult an independent risk management and insurance consultants. Having a professional who understands the “ins and outs” of the risk management and insurance look over your program might be one of the smarter moves you can make. ■

Note: Before you allow someone to work on your behalf, ensure that they have the proper designations or industry affiliations. The Society of Risk Management Consultants lists its members on its website (www.srmcsociety.org/). In addition, the Chartered Property Casualty Underwriters Society, which grants a “CPCU” designation to insurance professionals based on adherence to its ethical and continuing education guidelines, has an Agent and Broker Locator on its website, www.cpcusociety.org. The author, Terrence P. Coughlin, is a member of both and can be reached at coughlin@accriskmanagement.com.