

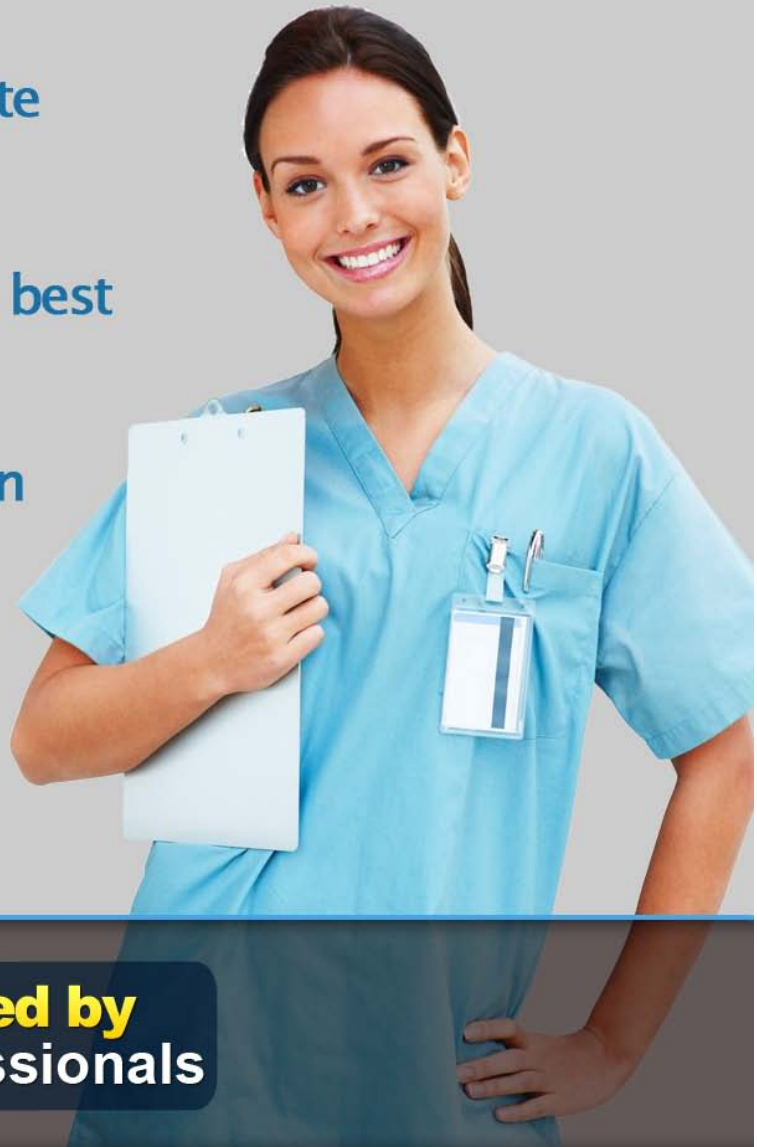
Malpractice Insurance

7 Costly Mistakes to Avoid when Purchasing Insurance

- ✓ The 5 Absolute Must Do's
- ✓ Choosing the best Coverage
- ✓ Helpful tips on Claims.



Four Star Rating By Experts



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Industry Professionals

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1. Failing to Check Out the Insurance Company

There are many insurance companies out there willing to sell you malpractice insurance, and one of the gravest mistakes would be failing to check out their financial security. Insurance companies go out of business every year, and a firm is only as secure as the funding behind it.

So how do you establish the financial strength of any particular insurance company? Carry out an internet search for *AM Best's Guide to Insurance Companies* and register - registration is free. You can then enter the name of your intended insurer to find their financial strength rating, credit rating and so on. You might also find a copy in your local library.

AM Best is the world's leading authority on the financial health of most insurance companies. Their rate classifications are designated by a letter grade of A through F depending on their size, age, assets, and reserves. Insurers rated A- or better should be your first choice and grades less than that need careful scrutiny.

2. Being Unaware of What You Are Covered For.

A huge mistake that some doctors make is not to check the scope of their coverage, and to be unaware of their policy limits. Malpractice insurance covers you for professional negligence, and most will also offer cover for your conduct as a member of a peer review panel. What this means is that if a fellow professional suffers because of an inappropriate panel decision, a lawyer will be provided to help you fight any damages proceedings.

Make sure you understand all exclusions to your malpractice insurance policy. It would be a mistake to assume that all eventualities are covered, because they are not. For example, sexual impropriety and alteration of records will be highly unlikely to be covered.

Another common mistake is not to know your policy or coverage limits. When you see a policy limit such as \$1,000,000/\$3,000,000, this means that your policy will pay a limit of 1 million dollars for each claim, and no more, and that it will pay no more than \$3 million for all claims during the stated period. So you can have up to 3 claims of \$1 million net or 30 of \$100,000 - although your insurance company (and possibly professional body) will likely be asking you some serious questions! These limits can vary between states.

So, before you sign the dotted line for your malpractice insurance policy, do not make the mistake of doing so without knowing what your policy covers and more importantly what it doesn't cover (exclusions). You can ask as many questions as you want before you have to sign.

3. Being Unaware of How to Act Regarding Potential Claims

A mistake that is often made is to do something wrong, even by accident, and then wait to see what happens. If you believe that you have done something that raises the possibility of a malpractice claim, then you must immediately inform your insurer. They will not be judgmental, but will be aware of the situation and be in a position to act quickly should they have to.

Do not, under any circumstances, wait until proceedings commence against you or you might find that your company will refuse to cover you. If you even suspect that you might have inadvertently made some error that has been noticed, contact your insurance company and let them know. Tell them:

- The nature of what you did and why it may be deemed unprofessional or malpractice
- The place, date and time that this occurred
- Details of any immediate or potential damage caused by your actions
- Any individuals involved - clients, employees, witnesses, etc. together with their names and addresses.

If your actions have been noticed, inform your insurer immediately you receive a summons or notification of a complaint being made against you or your business. Do so by telephone first and then follow that up with the same information in writing, providing your insurance company with copies of any documents you have been given including legal documents. Do not think anything is too unimportant or immaterial - that would be a serious mistake.

Never make any personal agreement with a complainant or agree to pay any money without first contacting your insurance company. Inform them of any offer made to you. You might void your policy if you make any admission or come to any agreements. Anything you agree will be your personal responsibility - including any financial arrangement.

In conclusion, if you believe that you might have done something that could result in a claim against you, immediately inform your insurance company. If it comes to nothing, then nothing is lost. However, if it does result in a suit against you, and you have failed to inform your insurer, they may void your claim. Never come to personal arrangements or try to settle the claim yourself. Leave all contact with the complainant to your insurance company and to the lawyer assigned to your case.

4. Being Unaware of the difference Between Personal Injury and Personal Liability

Personal injury and personal liability are two different insurable situations, and some insurance companies will cover you against both in addition to your Professional Liability coverage. First let's consider personal liability, and how that differs from professional liability.

Personal /Office Liability:

Personal liability is injury or loss to another person due to your negligence or wrongdoing in the course of your normal life - not as a result of your professional work. The most common form of this coverage is office trip and fall. If you are a doctor and make a mistake in your treatment of a patient, that is professional liability or malpractice.

However, by including these in your malpractice policy by endorsement you will likely pay a significant lower premium than if you took the two insurances separately. Most home insurance policies also include personal liability, but if not then you should consider negotiating personal liability with your professional liability insurer if they offer it..

Personal Injury:

This involves injury to individuals, such as wrongful arrest or imprisonment, slander or libel, violation of privacy, malicious prosecution for acts you are accused of committing.

Take note that, under these definitions, personal injury does not necessarily involve bodily harm. It must also take place during the course of your professional work and during the period covered by your insurance policy. For example, a wrongful, malicious complaint made by a client against a doctor for sexual interference during an examination would be covered, but the same complaint about the same doctor's behavior at a night club would not be. If the doctor was found guilty, however, the insurance policy will not generally pay out.

Always check your insurance policy and the small print for the definitions of these terms as applied by your insurer, and also make sure you fully understand the exclusions. A very common mistake made by most people is not to check the exclusions, and to ignore the definitions in the small print.

If you are not sure as to what coverage and exclusions you are purchasing we strongly recommend you consult an attorney for clarification.

5. Being Unaware of How Legal Costs are allocated

Many insured professionals have no idea how the legal costs will be allocated in the event of them being involved in a professional liability court case. Most just think it cannot happen to them, so don't bother with the detail - this could be very costly to them. In fact, legal costs can be included within your liability or can be allocated by the insurers over and above that liability.

Thus, let's assume that you have a professional liability insurance policy with coverage limits of \$1,000,000/\$3,000,000 and that legal costs are included within the limits of liability. What that means is this:

Let's also say that you have been involved in a court case for professional negligence, and have a successful claim made against you for \$800,000. Let's say the legal expenses are decided at \$200,000. Irrespective of how the legal costs are included, your insurance policy covers a total of \$1 million, so it can pay both legal costs and the sum awarded.

However, if instead of \$800,000 the sum awarded against you had been \$1 million with the same legal costs, the insurance policy would have been able to cover the award, but not the legal costs - you would personally have to find that \$200,000, which for many would likely mean bankruptcy or losing your practice or home.

Now, on the other hand, had the legal costs not been included within the liability limits but they had been in addition to these limits, then the insurance company would have paid the full \$1.2 million.

Very often people take the cheapest option because they never believe that they could never be the subject of a professional malpractice suit. That is a big mistake - anybody can make a slip at some time, and it can have consequences much greater than you might believe. Never make the mistake of forgetting legal costs when insuring against malpractice.

Very few people ever mean to act unprofessionally or make mistakes, but it happens and it could happen to you. Be fully aware of the terms of your professional liability insurance policy, and exactly how your legal costs are allocated - are they include in the limits of liability of your policy or additional to them. The latter is the safer option.

6. Fail to Learn, Educate or Assess Risk

The objective of buying professional liability insurance is to cover yourself or your business financially in case mistakes should happen. Many make the mistake of using it as an alternative to proper training and wait for mistakes to happen. How much of your staff training focuses on risk avoidance, and how many risk assessments have you carried out to help reduce the likelihood of you having to use your liability insurance?

'Wait and see' is no policy, and one of the biggest errors that most doctors make is the failure to identify problem areas that could lead to potential damages claims and to identify the risk of incidents taking place. All professionals should have well thought out procedures they must follow.

Some doctors follow procedures haphazardly, and if something should happen through ignorance or avoidance of procedures you could have no defense. There is no truer saying than 'familiarity breeds contempt.' Yes, your insurance might pay out, but your premiums would be raised to a considerably higher level or you could be cancelled. Here are some steps you can take to reduce the possibility of you or your business having to make a claim on your professional liability insurance.

- Make sure procedures are written down and that people follow them.
- Carry out regular audits to make sure your procedures are being followed.
- Provide training where necessary to those that find it difficult to follow the rules and prefer to take shortcuts. A shortcut can work 1,000 times, but it is that one failure that can cost you dearly.
- Identify potentially hazardous procedures and conduct documented risk assessments of your processes and procedures to make sure that the risk of liability is reduced to an acceptably low level. Modify processes and procedures to reduce risk.
- Enforce all procedures rigorously - if employees, even professionals, are allowed to ignore even one rule, then they are liable to ignore any rule when it suits them.

While professional liability insurance covers you and your company, and perhaps also your employees, it should not be regarded as an alternative to risk management. Your objective should be never to have to use it, because your management systems make it difficult for people to make the professional errors that result in complaints. This approach will work in most professional environments such as hospitals, law firms and research facilities.

7. Being Unsure About Your Employer's Coverage

Many employers will cover their employees for professional liability, and a common mistake that many employees make is to assume that they have full liability coverage. Do not assume anything - ask for a copy of the insurance policy and read it carefully, including all the fine print you can find.

Whether you are working in your own practice or are employed by another, it is essential for you to be fully aware of what you are insured against and what the policy does not cover. If your employer claims that you are fully covered, don't just take their word for it but insist on seeing a copy of the policy. In fact, you should check out everything we have previously discussed, including:

- Check out the financial strength of the insurer - or is the firm self-insured (AM Best)
- Check everything you are specifically covered for and also check the exclusions and the small print.
- Fully understand the required procedure should you be involved in a potential 'incident' that might lead to a future claim, and exactly how to contact your insurance company, give them the necessary details and make a claim. If your employer asks you to give the details to them, also send a copy to the insurer or at least check with them.
- What else are you covered for - is there also personal liability cover for example?
- What if somebody makes a wrongful claim about your conduct?
- Is it a 'claims-made' or 'occurrence' policy?
- What happens if your firm closes and you subsequently face a claim for an incident that occurred during your employment?
- Are your legal costs additional to your policy limits?
- Will the lawyer be protecting your employer or protecting you: will the emphasis be on ensuring the practice is not responsible for your actions or on proving your innocence?
- Will the insurance company and its legal department be working for you in the event of a claim - is it you who must give consent if a deal is struck though admission of your negligence?

You should carefully weigh all these factors up and make your own decision as to whether or not you would be better to buy your own professional liability insurance policy. You might find that you can cover yourself both personally and professionally for not a great deal more than a personal liability policy would cost you.

8. Bonus -- The Truth About Arbitration Agreements

One of the most amazing questions in the medical industry today is why chiropractic doctors are the only medical practitioners who don't use Patient Arbitration. MDs, physiologists, dentists, druggists, hospitals, clinics, etc. and even veterinarians use PA. The answer is simple; their insurance companies didn't require it until the 1990s and now they do. Most chiropractic malpractice companies do not offer the option of having patient arbitration. The Allied Professional Insurers has been offering PA as an option with a big rate reduction for 29 years. Patient Arbitration keeps you out of extensive depositions, court trials, and avoids over the top jury awards. Lawyers hate PA as it eliminates quick settlements and deep pocket jury verdicts all of which make them rich but damages a doctor's professional record.

PA greatly reduces legal expenses which Allied passes on to their clients in the form of significantly lower insurance rates. If you are sued they will interview you to get the facts and their attorneys will present your case to a court appointed arbitrator who understands your profession. Generally you avoid prolonged depositions, court trials requiring your testimony, and jury awards that can exceed your insurance limits. Don't insure with a company that just will settle a suit because it costs less then going to trial, leaving the doctor with malpractice claim on his record. Make sure your carrier consults with you prior to resolving any legal action against you.

Does PA drive away new patients? The answer is no. The few people who refuse to sign a PA agreement are either personal injury attorneys or someone who is hoping you make a mistake and they can get a quick settlement that pays for their next vacation. Studies of over 1000 doctor's practices tell us that less then one quarter of one percent 00.25 of patients refuse to sign a PA agreement. Ask your self do you really want those people as patients?

For a competitive quote on your malpractice insurance

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