

Medical Malpractice: 5 Questions a Med Mal carrier should be asked as part of your due diligence

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Medical Malpractice (aka Professional Liability) insurance is one of the most vital and expensive insurance coverages physicians carry and is required by law in most states. In the current healthcare environment, it is crucial for providers to educate themselves before choosing a Medical Malpractice insurance carrier. It is a provider's worst nightmare to purchase expensive insurance coverage year after year only to find out when a claim arises they don't have decision making power over settlement, minimal coverage or perhaps no coverage at all. In the unfortunate event of a claim, it is a provider's assets and reputation on the line. Knowing the right questions to ask can alleviate the stress associated with purchasing Medical Malpractice coverage.

Here are 5 questions you need to ask a Medical Malpractice insurance carrier before purchasing coverage:

1. Is the carrier rated "A" or higher by [A.M. Best](#)?

Financial stability and longevity are essential factors to consider when purchasing Medical Malpractice insurance. Liability claims take years to develop and you want to be with a carrier who is going to be in business in the event of a claim. In the event your carrier becomes insolvent or has left the market, you could be left with minimal or no coverage at all.

2. Does the carrier have an unconditional consent to settle provision included in its policies?

A consent to settle provision requires the physician's consent before the carrier can settle the claim on the physician's behalf. This provision gives the policyholder the right to refuse to settle a claim. It is important for the insured to have the final say in whether or not they want to fight or settle a claim because it is their reputation on the line.

3. Does the carrier offer risk management services to help mitigate claims?

It is critical for physicians to utilize carrier risk management services to reduce risk and avoid lawsuits. Your carrier should have resources to assist you with seminars, risk management courses, onsite consultations, other tools and general support to minimize your chance of being named in a claim. Carriers should have the ability to offer guidance and assistance in developing your procedure-specific informed consent forms, HIPAA Privacy Authorization forms and other agreements to reduce risk.

4. Does the carrier utilize local law firms that specialize in Medical Malpractice insurance?

It is important for your carrier to have local expert counsel who specialize in defending Medical Malpractice claims. Counsel should utilize well qualified expert witnesses, have state specific knowledge and experience to provide aggressive claims defense. Your carrier should have the reputation and data to support their trial win rate and their percentage of claims closed without payment.

5. Is the policy claims made and does it have a “free tail” provision?

Under a claims-made insurance policy, in the event you terminate your policy and to ensure all claims that occur after the policy is cancelled are covered by the insurance carrier; you must purchase tail coverage. Each state has different statutes of limitations that define the amount of time in which a patient can file a lawsuit. You want to be sure that when you cancel your claims-made policy, you are covered indefinitely. Claims may take years to develop and it is imperative for a physician to be covered by an unlimited tail endorsement. Many carriers offer free tail provisions in the event of death, disability and retirement. This provision becomes especially important when physicians are closer to retirement because carriers require you be insured with them for one, five or more years in order to earn a free retirement tail.

In addition to the 5 items above, it is extremely important to utilize a broker with years of experience and a consultative approach, one that has access to AM Best rated, national carriers.

ACOs can implement a Medical Liability insurance program for their providers and potentially **save each provider 20% to 40%** in premium. Not only does this increase the viability of the physician’s practice but it offers an additional benefit to joining your ACO.

To learn more about Medical Malpractice insurance, please contact:

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