

PROFESSIONAL LIABILITY INSURANCE SUMMARY HANDOUT

1. What does liability insurance cover?
 - a. the costs of any resulting verdicts or settlements, investigation costs and representation costs
2. Why is insurance needed?
 - a. Simply put, without insurance, the physician is personally responsible for all costs related to a claim
3. Consent to settle
 - a. Commercial-owned insurance companies often include a clause that compels physicians to agree to settle when “deemed expedient”
 - b. All settlements must be reported to National Practitioners Data Bank
4. Understanding liability insurance
 - a. Commonly described as 1 million/3 million
 - b. First number represents maximum amount to be paid for a single claim
 - c. Second number represents maximum amount to be paid over 1 year
 - d. If third number is present, it signifies it is a group policy and represents the maximum amount that will be paid over 1 year for that group
5. Types of insurance policies
 - a. Claims made policy (most common)
 - i. Covers claims that occurred and are filed during time of active coverage
 - ii. This is why tail coverage is essential for a claims made policy (if a claim is filed after the coverage has ended, the policy will not cover it, but tail coverage will)
 - b. Group claims made policy (claims made, but for a group)
 - i. Yearly cap often is estimated based on the number of patients the group sees
 - c. Occurrence policy (uncommon)
 - i. Covers any claim made on an event that occurred during the period in which the policy was active (doesn't matter when claim is filed as long as it occurred during the active policy)

***Avoid gaps in coverage and research tail coverage before ending a policy.**

6. Amount of Coverage
 - a. Important to have a high enough maximum amount on single claim to be able to settle if needed (1 million is usually reasonable)
7. Insurance Company
 - a. Important to obtain insurance from a company that is solvent and reliable, preferably one that is admitted to the state in which one practices in
 - i. Admitted insurance company is a company that is licensed to do business in that state as an insurance company

- ii. Admitted companies have protections afforded by the state's guaranty fund. If that company becomes insolvent or defaults on benefit payments, the fund will protect the policyholders of that insurance company

***The best policy is likely to be an individualized policy from a reliable company that is admitted to the state that you practice in with a single claims cap that is sufficient to settle the vast majority of claims.**

- 8. Asset Protection (protecting assets from creditors in the event of a claim)
 - a. Commonly exempt assets: employee-based retirement plans (401(k)), IRA funds, life insurance, annuities
 - b. Personal residence
 - i. Typically, there is a protective cap- amount depends on the state
 - ii. Tenancy by the Entirety- statute present in about 1/3 of states
 - 1. Exists between husband and wife and is a joint ownership of a property and neither party may sell/share property without the other's consent
 - c. Trust funds
 - i. Protected from creditors if the money is intended for another and are unable to be revoked (trustee has no access to the money)
 - d. Foreign Assets
 - i. Be wary of companies offering creation of offshore/foreign assets as a line of asset protection against creditors
 - ii. Uniform Fraudulent Transfer Act
 - 1. One cannot create assets (such as foreign bank accounts) or sell/give away assets in an attempt to evade or frustrate creditors
- 9. Added Umbrella Insurance (add to homeowner's insurance)
 - a. Extra liability insurance that protects assets from major claims and lawsuits
 - i. Occupation and non-occupation related liability
 - ii. Typically suggested that physicians should purchase between \$1-5 million in added umbrella insurance policy depending on the value of his/her assets
- 10. Financial catastrophes that you should consider coverage for
 - a. Death → life insurance
 - b. Disability → disability insurance
 - c. Illness or injury → health insurance
 - d. Destruction of expensive property → homeowner's insurance
 - e. Non-occupation-related liability → auto insurance, homeowner's insurance and umbrella insurance
 - f. Occupation related liability → professional liability insurance and umbrella insurance

***Good asset protection starts with good insurance i.e. are there sufficient funds to tempt a settlement in the majority of cases and added umbrella insurance**