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Know Your Options.

Understand which solutions fit your needs.

Medical liability insurance can be confusing. What questions should you ask? What do you need to know about your policy?

Because the relationship with your professional liability carrier is a long-term concern, you need to thoroughly understand how that relationship is defined. If you don't, you may sign up for a policy that isn't the best fit for your needs, or worse you may not understand your coverage or your rights.

First, you need to read the policy carefully. Ask the insurer if there are any other documents (such as an association's by-laws) that might impact your rights and obligations. Review this information with an attorney experienced in insurance and contract law. Ask the following questions:

Is your premium guaranteed? Typically, admitted professional liability carriers are "Advance Premium" companies. This means that the premiums paid by the policyholders are established at the beginning of the policy period and are guaranteed not to increase regardless of any adverse loss development experienced by the company for that policy year.

Other professional liability companies, such as Risk Retention Groups, are often referred to as "assessable" companies. This means that the premiums paid by policyholders at the beginning of a policy period are estimates only. If an assessable company has losses or expenses that exceed the premiums collected, they can collect extra premium (i.e. assessments) from policyholders – possibly even after your policy period ends or your policy is cancelled.

Consent to settle required?* How much control does the policy allow an individual physician to have when making decisions regarding the settlement of a claim? After all, settlement of a claim involves more than money – it can impact your reputation, your practice and even future insurability. Who decides if the claim will be presented to a jury? The Insurer? An arbitration panel? If you object to settlement and the trial verdict is higher than what you could have settled for, will you be personally liable?

Ask if you have a voice in your defense. Know what rights, if any, the policy gives you if settlement is considered.

*Except where prohibited by state law or by policy type.

What triggers coverage? Whether you have a claims-made or occurrence policy, you need to understand what triggers coverage. Does the claims-made policy, for example, allow you to trigger coverage by reporting medical incidents you reasonably believe could result in a claim? If not, when can you trigger coverage? Do you have to wait for a formal demand for damages or lawsuit before the policy responds?

What about policy cancellation or modification? What if there is a change to the policy terms or conditions? Will you receive advance, written notice? Will you have the opportunity to examine your options and secure alternative coverage if necessary?

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Occurrence or Claims-Made? Your policy will most likely provide professional liability coverage on either an occurrence or claims-made basis.

Occurrence coverage responds to claims based on when the medical incident occurred, regardless of when the claim is actually made against you. As long as the medical incident occurred during the policy period, your occurrence policy will respond—even if the claim is made after the policy period expires.

Claims-Made coverage, by contrast, responds to claims based on when the claim is first made against an insured. Given the length of time that can pass between a medical incident and a resulting claim, claims-made policies contain a retroactive (or "prior acts") date. This retroactive date allows the policy to look back in time and consider prior medical incidents. As long as the medical incident took place after the policy's retroactive date (or "prior acts date"), and the claim is first made during the policy period, your claims-made policy will respond.

If you renew your claims-made policy with the current carrier, your coverage will continue uninterrupted. However, if you move to another professional liability carrier, your claims-made coverage ends and you will have to either obtain a reporting endorsement from the prior carrier (often referred to as "tail" coverage), or purchase prior acts coverage from the new carrier. A reporting endorsement allows you to report claims based on medical incidents that took place between the retroactive date and policy termination date, but are first made after the policy coverage terminates. If your prior carrier is unable or unwilling to provide you with a reporting endorsement, you will have to seek coverage for these "prior acts" through your new carrier.

However, new carriers will consider the financial stability of your prior carrier. If the prior carrier is considered financially unstable or insolvent, the new carrier will be less willing to extend coverage for any prior acts. Since this could impact your insurability and create coverage gaps, it is important to purchase coverage from financially stable companies. Remember, coverage, including extended reporting endorsements, is only as good as the long-term financial health of your carrier.

As with the policy itself, you need to review the language of any reporting endorsement offered. Understand your right to obtain an offer of tail coverage, how the premium (if any) will be determined, and the length of time you are given to report claims.

Beyond the Policy – Risk Management Solutions. Does your professional liability carrier go beyond the policy to help you improve patient safety and reduce risk? Do you have access to the tools and resources necessary to support those efforts?

Effective risk management is critical for all health care professional. It requires extensive knowledge of the myriad of issues affecting today's providers, and helps you find creative answers and meet the most pressing challenges.

Understanding the relationship with your professional liability carrier is critical. Invest the time to examine your policy's benefits, coverages and costs.

Ask questions. Compare offerings.

At Medical Protective we're proud to offer you our expertise and dedication to fulfill and service your insurance needs as they develop and change.

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