

What Private Practice Neurologists Should Know About Insurance

BY HEATHER LINDSEY

No matter what area of neurology a physician pursues, insurance or professional liability is a crucial component of protecting a private medical practice, experts told *Neurology Today*. And now is a good time to test the malpractice insurance market because it is soft, said Melinda Malecki, JD, health-care attorney and risk management consultant of Lebow, Malecki, and Tasch, LLC, in Chicago, IL.

When obtaining professional liability insurance, physicians should try to portray themselves as a good risk, she advised.

History and experience are important, said Peter Hoffman, JD, a medical-malpractice defense attorney with Eckert Seamans in Philadelphia, PA. "Insurance companies are interested in how many claims you have had and how these claims were disposed of, whether money was paid, cases were opened, and defense and indemnity costs were paid," he said.

Moreover, insurance carriers want to see that physicians have good office procedures in place, Malecki said. Risk management can be demonstrated with thorough documentation, such as an electronic medical record and a comprehensive consent form.

READING THE FINE PRINT

Most important, physicians should read through the policy's fine print, including terms about coverage limits, which vary from state to state, Malecki said.

ONLINE RESOURCES: PRACTICE INSURANCE

To learn more about practice insurance, try these online sources.

- **Understanding Medical Malpractice Insurance: A Primer.** The Robert Wood Johnson Foundation. www.rwjf.org/pr/synthesis/reports_and_briefs/pdf/no10_primer.pdf
- **Medical Malpractice.** The Insurance Information Institute. www.iii.org/media/hottopics/insurance/medicalmal/
- **Insurance for a Professional Practice.** The Insurance Information Institute. www.iii.org/smallbusiness/specific/professional/



MELINDA MALECKI said that in addition to coverage limits, physicians should look at premium rates and coverage of professional liability defense and licensing defense.

The hospitals and insurance companies doctors may contract with also have varying requirements for coverage, said Jim Nelson, an insurance broker at the family-owned R. T. Nelson & Associates, Ltd., in Hinsdale, IL. While difficult to pinpoint an exact figure, the norm for many physicians can be \$1 million per occurrence and \$3 million per year, although these numbers may increase with higher-risk specialties, he said. For example, neurosurgeons may take on higher limits.

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A consent to settle clause is also important, Hoffman said. Many physicians want a policy to contain language stating that the insurance company cannot settle a case without the doctor's consent, he explained, adding that many physicians want to retain control of whether or not a case goes to trial.

Additionally, doctors need to understand any policy exclusions, which vary depending on the policy and carrier, said Nelson. Working outside the realm of current employment, charges of sexual abuse, criminal acts, and fraud are common exclusions, he explained.

Changing insurance carriers can also create issues. If physicians decide to change carriers and their malpractice coverage is "claims made," they might need to purchase tail insurance, said Malecki. Insurance will not cover a claim

of malpractice that occurred during the policy period but was reported after the period terminated, she explained. "Tail insurance will cover this gap; however, it can cost up to 200 percent of the annual malpractice premium," she said.

When shopping for new malpractice coverage, Malecki recommends asking insurance companies if they will retroactively date their policies to pick up incurred malpractice incidences that have not yet been reported.

Finally, physicians need to remember that malpractice insurance does not necessarily protect personal assets, Malecki said. Physicians should speak with an estate-planning attorney to arrange for this type of protection, she said.

OTHER INSURANCE

In addition to professional liability insurance, private practice neurologists should obtain a business owner's policy, which

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In contrast, occurrence policies cover malpractice claims that occur while the policy is in effect no matter when a claim is filed, Hoffman explained. If physicians have an occurrence policy they should be sure to maintain it because they are becoming fewer and farther between, he said.

generally includes property insurance, general liability, and workers' compensation, Nelson said.

Physicians also need to consider investing in long-term disability insurance if they don't already have a policy, as well as health insurance for them and any employees, he said. •

AAN MALPRACTICE INSURANCE PROGRAM

To help neurologists acquire comprehensive and affordable malpractice insurance, the AAN is endorsing "The Neurologists' Program" (TNP), a professional liability insurance product managed by Professional Risk Management Services (PRMS), said Bruce Polsky, CEO of AAN Enterprises, Inc. TNP is tailored to neurologists, and AAN members will be offered a discount, Polsky said.

Coverage may vary from state to state and can be written on a claims-made or occurrence basis with limits of up to \$2 million to \$6 million, said Jacqueline Palumbo, senior vice president of underwriting at PRMS. Neurosurgeons, however, are not included in the program, she said.

A variety of other discounts will also be available. For example, part-time practitioners may receive up to a 50 percent premium discount, while physicians in their first year of practice may be eligible for up to a 60 percent discount.

PRMS is also collaborating with the AAN practice committee to develop a risk management program to improve patient outcomes, which may reduce the cost of malpractice insurance, Polsky said. AAN members will receive a 5 percent discount for these risk management programs.

PRMS has begun filing rates with insurance departments in several states and is prepared to offer its program in these states as soon as the regulatory filings are approved. PRMS anticipates that by the end of 2009, its malpractice program will be nationwide, Polsky said.

Also as part of the AAN Partners Program, Forrest T. Jones & Co., Inc. (FTJ) offers several insurance policies designed exclusively for AAN members that include health, term life, disability; business overhead; long-term care insurance evaluation; and auto, home, and renter's insurance, Kelly Lawton, new business development manager at the AAN, said.

For more information about the insurance benefits available to members through the AAN Partners Program, visit aan.com/partners or contact Lawton at klawton@aan.com or (651) 695-2778. Information about insurance from FTJ is available at ftj.com/aan or (866) 897-5475.