Insurance 101 and the Medical Malpractice Basics for Neurologists

Presented by:
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Insurance
Cash says a practicing neurologist is likely to need several types of insurance through his or her career. These may range from a medical professional liability policy and other types such as general liability, worker’s compensation if you have employees, life insurance, an umbrella policy, and more.

Cash emphasizes the importance of understanding the difference between occurrence coverage and claims-made coverage. Occurrence coverage means the policy covers claims from events that occur during policy period or while the policy is active. In claims-made coverage, the event has to occur and the complaint has to be made during the time when the policy is active. Claims-made coverage is less expensive, but may require the purchase of expensive tail coverage at a later date. Tail coverage extends the claims reporting period after the policy is ended.

Cash says it’s important for you to review your insurance contract or policy closely. Contracts typically have five basic parts: a declarations page, the insuring agreement, conditions, exclusions, and endorsements.

Your input in the claims settlement process is known as consent to settlement and Cash reviews four types of consent to settlement:

- Unlimited consent allows the insured neurologist to decide whether or not the lawsuit settles.
- Limited with arbitration lets the insured decide but involves a procedure if the insured and carrier disagree about the case.
- No consent lets the insurance carrier decide whether to settle a case or not.
- Limited with hammer clause means that if there’s an offer of settlement, you can reject the offer, but if there’s a judgment for a higher figure, then you have to pay the difference out-of-pocket. Cash says this is a risky and expensive consideration.

When comparing the costs of policies, pay careful consideration to types of coverage; policy limits; geography; discounts; and specialty coverage. Cash advises to make sure you’re comparing the same policies when looking at cost.
Risk Management

Risk management advice stems from the following basic elements of a lawsuit. In order to win a lawsuit against you, the patient or plaintiff would have to prove each of these elements.

- **Duty of Care**—to provide care that meets the standard of care, as determined by other neurologists.

- **Breach of the standard of care**. (e.g., If you’re sued, other neurologists may act as expert witnesses to review the patient’s treatment record. They will offer an opinion as to whether or not you breached or met the standard of care.)

- **Causation**—In order to win, plaintiff has to prove that it was your breach that caused the injury, which leads to the damages element.

- **Damages**—There has to be a compensable injury that the patient suffered.

Cash says a lawsuit is not a plaintiff’s only option. They may make complaints to the medical or state licensing board, professional associations, and government regulatory agencies. Take these complaints seriously as they may be used to build a case for medical malpractice against you.

Basic methods for reducing risk in neurologic practice can be gathered into three groups: information gathering, communication, and documentation.

The patient’s history and physical are crucial to neurologists more so than other specialties because a neurological diagnosis often calls for a higher degree specificity than in other specialties. Documentation is important and can go a long way to defending you. Diagnostic tests are also an important part of gathering information and help lessen your risk. Lapses in communication account for a large number of neurologist lawsuits. Cash advises to never make an assumption about a patient’s literacy.

Cash says obtaining the following may lessen your chances of a lawsuit:

- **An experienced colleague**—Have someone you respect that you can run the tough cases by and who can give you that curbside consult.

- **An attorney**—Get a health care attorney and become a client before you need him or her. Don’t wait until you get sued to search for an attorney.

- **An accountant/practice manager**—Practicing medicine is a business and not everyone is adept at running a business. If business is not your forte, have an accountant or manager run your practice.

- **Membership in the AAN and/or other professional organizations** to gather information on latest treatments and practice-related information.

- **A trusted insurance professional** on whom you can rely.