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## COPIC's Guide to Medical Professional Liability Insurance

There are a lot of challenges in health care today, and understanding medical professional liability (MPL) insurance shouldn't be one of them. That's why COPIC has developed this reference guide. It is an overview that explains key terminology, options, and other details so health care professionals have information to select the right insurance carrier.

### WHAT IS MPL INSURANCE?

MPL insurance policies offer coverage for an incident (by act or omission) that arises from services rendered by physicians or health care professionals within their "professional capacity." Coverage is triggered as a result of a claim that alleges that treatment was below the standard level of care and/or caused injury or death to a patient.

Policies generally provide coverage for payments to a plaintiff (i.e. patient or patient's family) as compensation for an alleged incident and cover legal defense costs. Traditionally, these payments include both economic (actual medical costs) and non-economic (pain and suffering) damages. MPL policies typically have exclusions for incidents that are considered dishonest, fraudulent, or criminal, as well as general exclusions for property damage and other risks not associated with insureds providing health care services.

### WHAT ARE THE TWO BASIC TYPES OF MPL INSURANCE POLICIES AVAILABLE?

- **Occurrence policies:** Covers an insured against claims that arise from an event that took place during his or her policy period, regardless of when the claim is reported. The date of the incident triggers coverage. If a claim is made several years after the alleged incident and the insured's coverage is no longer active, he or she would be covered if the policy was in effect when the incident occurred.
- **Claims-made policies:** Covers an insured for claims reported during an active policy period that are related to incidents that occur on or after the

retroactive date of coverage. The report date of the incident triggers coverage. If the policy expires and a claim arises after this, the insurance provider is not obligated to provide coverage (unless tail coverage has been purchased).

### WHAT IS PRIOR ACTS COVERAGE? WHAT IS TAIL COVERAGE?

**Prior acts coverage** can be purchased to provide coverage for unknown and unreported claims (from acts or omissions) that occurred before the effective date of the policy.

**Tail coverage** provides coverage for claims caused by an incident that occurred during a claims-made policy period, but are reported after a policy has expired or been cancelled. It can be purchased upon the expiration of a claims-made policy for continued coverage.

Prior acts or tail coverage are used to prevent a "gap" in coverage when an insured switches insurance carriers and/or retires from practice.

### WHAT ARE THE TYPES OF MPL COVERAGE OPTIONS AVAILABLE?

The employment arrangement of the insured generally determines the type(s) of coverage he or she will need to meet the MPL requirements.

- **Individual\*:** Issued to one physician on his or her own policy and covers incidents for that person only.
- **Group\*:** Offered to multiple physicians under one policy and covers incidents that are reported on behalf of any of the insureds named on the declaration page of the policy.
- **Corporate/partnership\*:** Covers the exposure of a professional partnership or corporation of which the insured is an owner, shareholder, partner, or an employee.
- **Locum tenens:** Offers coverage when a physician is providing temporary services for the named insured (i.e. a substitute physician provides care

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for patients while an otherwise insured physician is away for an extended period of time). It is often written as a “policy endorsement” on an existing policy.

- **Slot coverage:** Offered to group practices or facilities and covers a “block” of exposures. An example would be coverage for several different physicians who rotate through one full-time equivalent position.

*\*these types of policies may also offer protection for acts of other health professionals that are under the direct supervision of an insured and/or employees of the insured.*

## WHAT ARE THE KEY ELEMENTS WITHIN A MPL POLICY?

- **Limits of liability:** The specific dollar amounts a policy provides coverage for, these include the maximum amount per incident and an aggregate amount for a policy period (generally one year). For example, a “\$1 million/\$3 million” limit of liability means that the maximum amount of coverage per reported incident is \$1 million and the maximum limit for all incidents reported during the policy period is \$3 million.
- **Declaration page or coverage summary:** A section of the insurance policy that outlines in detail the individuals and entities covered under the policy, policy effective and expiration dates, policy type and coverage limitations, and other key information about the insured(s).
- **Exclusions:** A list of certain actions such as specific procedures, medical practice at specific locations, or other actions that are not covered under the policy.
- **Policy endorsement:** An amendment, addition or modification made to the policy, which changes the original policy provisions. Endorsements can be added to expand or restrict the level of coverage provided.
- **Restrictions:** Coverage limitations that impact the scope of medical practice. These are often in the form of geographical restrictions that limit where

a physician can practice, or procedural restrictions that limit physicians to only perform procedures for which they are properly qualified and trained for. Restrictions may be found in various sections of policies.

- **Retroactive date:** The earliest date that an incident can have occurred and be covered (subject to all policy terms and conditions).

## WHAT ARE THE FACTORS USED TO DETERMINE MPL POLICY PREMIUMS?

- **Policy type (occurrence vs. claims-made)**— Occurrence policies offer the same premium each year of coverage.  
  
Claims-made policies are generally available on a graduated premium basis, with increases each year that coverage is maintained until the “mature” rate is reached, usually after four years of coverage.  
  
Both policy types are subject to rate changes that may occur in the future.
- **Specialty classification**—The biggest factor that determines a premium rate. High-risk specialties such as surgery and obstetrics carry an increased level of risk when compared to lower-risk specialties such as pediatrics or general internal medicine.
- **Geographic location**—Insurance companies often evaluate claim experience based on geographical areas, as this factor can differ on a regional, state, or urban/rural basis.
- **Limits of liability**—Increased limits of liability result in higher premiums.
- **Additional insureds**—Policies may provide coverage for allied health professionals, other medical staff members, and multiple entities or organizations.
- **Number of hours of active medical practice**— Usually designated as a full-time or part-time employment status.

- **Merit rate**—Some MPL carriers offer a reduction in premium if an insured has not had a claim filed against them for a set period of time.
- **Surcharge**—The opposite of a merit rate, where an insured pays an additional cost if they exceed an expected threshold for claims reported against them.
- **Dividends/Distributions**—Returns made to an insured when the MPL insurance carrier has favorable loss experience and sufficient capital. Not all MPL carriers pay dividends or distributions.
- **Common Discounts:**
  - Group or practice size discount
  - New physician discount
  - Part-time practice discount
  - Risk management discount—Offered to insureds who participate in a company’s risk management activities or program and meet eligibility requirements to earn a discount.

—Deductibles—Some MPL insurance carriers offer deductibles that reduce the amount of the premium paid based on the deductible level that an insured selects. If a deductible is selected, the insured assumes financial responsibility for that amount of loss.

### WHAT ARE THE MAIN TYPES OF COMPANY STRUCTURES FOR MPL INSURANCE CARRIERS?

- **Privately-held stock company:** Stock is issued to select individuals, a holding company or trust, or a predetermined group.
- **Publicly-held stock company:** Stock is issued to shareholders and traded on a stock market.
- **Mutual company:** Member-owned by policyholders who share the profits and losses of the company.
- **Risk retention group (RRG):** A group of two or more organizations authorized by federal laws to pool and retain some or all of their liability exposure; generally regulated as a captive insurance company.



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