

Whether you pursue a career in academic medicine or private practice, having the right malpractice and disability insurance is extremely important. ATS members weigh in on why this is so and what kind of coverage you should have.

Q: Why is medical liability insurance so important?

A: As a fellow, you were covered by your institution's umbrella policy for medical malpractice and your supervising physicians were liable for your actions. As an independent physician, however, you have exposure to malpractice claims and defending yourself can be very expensive. Without coverage, practitioners are not only putting themselves at enormous personal financial risk for adverse malpractice outcomes—they will also be unable to obtain privileges at a hospital.

“Any gaps in insurance coverage are considered a red flag for hospital credentials committees—a sign of a high-risk physician who may put the institution at risk because of a lack of adequate past coverage,” said Louis Libby, M.D., chair of the ATS Clinicians Advisory Committee.

Q: How do I know what kind of malpractice coverage I need?

A: That largely depends on the type of institution or practice you join after you complete your training. Whereas large academic centers and non-academic medical groups are often self-insured—meaning they obtain coverage for their employees as an additional benefit—those in smaller private practices often have to secure their own policies.

And even if your employer does insure you for malpractice as part of your contract, remember that if you moonlight at any other venues, you may need additional coverage. No matter what your situation, it is a good idea to “find a trustworthy and competent insurance provider in your region who can carefully review your needs and tell you what kind of policies you should have,” said John Stevenson, M.D., a sleep medicine consultant who practices in Sturgeon Bay, Wisconsin.

Q: What types of medical liability insurance are available?

A: Claims-made policies, which are the most common, cover policyholders for alleged acts of malpractice that take place and are reported to the carrier during the payment period of the policy. “This means that the cost of the policy is relatively low for the first few years, due to the fact that there is usually a significant lag time between when a patient is evaluated and treated and when a claim is filed,” said Dr. Libby, who is executive vice president of the Oregon Clinic in Portland. However, this also means the premiums increase each year until the risk presented approximates a “mature” risk—which usually occurs over a period of five years.

“While a major advantage is the low initial cost, a major disadvantage is the fact that these policies do not cover alleged malpractice acts that are reported after the termination of the paid policy period,” Dr. Libby continued. That's why some people opt for occurrence policies, which cover any alleged act of malpractice that occurs during the payment period, even if they are not reported until years later. These policies are more difficult to obtain now and are more expensive at the beginning, usually starting with a mature price.

Q: Should I purchase additional coverage, if I decide to go with a claims-made policy?

A: Yes, because claims-made policies will not cover alleged malpractice that is reported after the payment period. But there is coverage that is designed to fill in the gaps. Say you decide to terminate your claims-made policy because you are moving, retiring or because you simply want to use a different insurance company. “In that instance, a tail policy would cover any claims made against you,” said Michael Green, M.D., who is a pulmonologist at Carolinas Healthcare System in Charlotte, North Carolina. When purchasing a claims-made policy, he cautioned, it is imperative to make sure that tail coverage will be available upon termination.

A prior acts policy, on the other hand, would cover claims made against you from acts that occurred before you started your new claims-made policy, explained Dr. Libby. “While tail policies are usually obtained from the original liability company, you would get prior acts coverage—commonly called ‘nose policies’—from your new insurance company, which will provide ongoing liability coverage.” The importance of both policies, he added, cannot be overemphasized.

Q: Who pays for this additional coverage and why is this important?

A: Financial coverage of malpractice needs to be included in any employment or shareholder agreement. This is especially important when you leave training and enter a practice—whether it be a traditional private practice setting, an academic institution or a large medical group with many employees.

“Who pays for what is negotiable when you sign a contract,” said Dr. Green. “If at all possible, you will want to include a provision that your employer will pay for your tail policy if you leave the practice. This could be quite expensive if you have to pay for it yourself.” That said, more often than not, it is the responsibility of the employee to ensure that a tail is purchased.



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Q: How will my needs change as my career progresses?

A: That will depend on the specifics of the respective contracts you sign, as you move from job to job. If you decide to go from an institutional setting to private practice, however, be sure to carefully review your needs with a qualified insurance provider. “When I moved from a hospital environment to consulting, I was shocked to discover that I needed all kinds of insurance that I didn’t even know about—workers comp, professional errors and omissions, directors and officers insurance—even though I have no other employees,” said Dr. Stevenson, who opened himself to new exposures when he incorporated his consulting company as an LLC in 2000. “I was lucky to have a very knowledgeable insurance agent who explained what I needed and why.”

Several of the policies his agent recommended protect him as a consultant on the design and development of sleep facilities and as a contract medical advisor for commercial companies. A practitioner who sees patients in consultation, he noted, would have very different needs.

Q: Why do I need disability insurance?

A: Because as a physician, you have invested a significant amount of time and money in your training and education. If you become injured or unable to work, a disability policy will provide a continued income for you and your loved ones. “Although everyone with dependents understands the importance of life insurance to protect their family, disability insurance is actually much more important, especially given that physicians are much more likely to become disabled than they are to die during their productive working years,” said Dr. Libby. “Without coverage, you risk loss of income—which is usually quite high—as well as an inability to pay additional expenses related to the disability that may not be fully covered by health insurance.”

If you are buying into a private practice as a partner, it is also a good idea to get a disability overhead policy, which would help you to pay expenses if one of your partners fell ill and was out of work for an extended period. Likewise, many practices purchase disability buyout insurance, which protects the partner who becomes disabled by providing the practice with the funds to buy their share of the business after six months or a year.

Q: Do I need my own disability policy now?

A: You should get a disability policy as early as possible in your career, and certainly when you leave training. The earlier you purchase it, the less expensive the premiums will be. And although group rates are usually cheaper than individual policies, keep in mind that group coverage can be limited and terminated.

“Your employer may already pay for a group policy, but keep in mind that if you leave your job, this coverage may not be portable,” said Dr. Green. “And if you develop a condition while working for that employer, it may be difficult to get your own policy if your circumstances change at a later date.” Individual policies, on the other hand, are guaranteed, non-cancelable and, in some cases, specialty-specific.

Q: How do I go about choosing an insurance company?

A: Your colleagues and future partners can be an invaluable resource in recommending reputable providers that will meet your needs. Dr. Stevenson also suggests contacting your state medical society. He obtained his coverage through the Wisconsin State Medical Society, which has its own insurance and financial services division. “It is wise to shop around,” he said. “Over the years, I have had insurance from many different providers, often determined by the large practices for which I worked. When I started my consulting business, I chose my current provider because the agent with whom I work has many years of experience and is patient in explaining things to me,” he said.

Q: Where can I go to get more information?

A: If you work for a large institution, try the human resources department, which should be well-versed in these issues. But keep in mind that it is also important to have your own advisors, Dr. Libby advised. “Use an employment lawyer in reviewing any contract for your professional services,” he said. “Also, the value of a financial advisor who has experience working with physicians should not be underestimated. Although these advisors can seem expensive at first, the value over the course of your career may be enormous.” ■