



By Steven Kern, JD

Medical Economics

How much insurance do you need?

■ **Don't purchase more insurance than you can reasonably afford.**

■ **The more insurance you carry, the more the plaintiff will typically seek in settling a case.**

■ **The less coverage you have, the greater the pressure to settle within your policy limits.**

Q *Because of the increase in multimillion-dollar malpractice awards these days, my broker tells me I should have \$5 million in insurance coverage. My colleagues tell me I only need the standard \$1 million/\$3 million policy. They warn me that the more coverage I have, the more plaintiffs' lawyers will ask for if I'm sued. Who's right?*

A There's really no easy answer, because no amount of insurance will guarantee complete protection against a runaway jury award. What you should do is analyze your insurance needs based on your specialty, your income, your personal assets, your willingness to take risk, and the cost of the premiums. Your decision may also depend on whether your state medical board or your hospital recommends or requires a minimum amount of coverage, and whether your state has

damage caps that limit your risk.

If you're an FP or general internist, your risk of a big malpractice judgment is clearly less than it is for ob/gyns or neurosurgeons, so it makes sense to buy the minimum amount of insurance required in your state—especially if you have limited income and few attachable assets. However, if you're a high-earning practitioner in a high-risk specialty, with valuable and attachable assets, consider buying as much insurance as you can afford. If you don't have enough, the plaintiff's attorney in a successful suit may be more likely to go after your personal assets. That's rare, though. Because they typically work on

a contingency basis, plaintiffs' attorneys are usually eager to settle a case rather than risk their chances (plus their time and money) by taking it to trial. When they negotiate with insurance attorneys, the amount under discussion is usually capped at the defendant-doctor's policy limits, excluding his personal assets.

The "buy as much as you can afford" question is complicated by the realities of medical malpractice litigation. Since most cases settle within policy limits—which are usually disclosed during the discovery phase—the more insurance you carry, the more money the plaintiff will ask for to settle a case.

Conversely, the less insurance coverage you have, the greater the pressure on you to settle a claim within your policy limits. But settling nonmeritorious cases, for whatever reason, has some serious disadvantages: All malpractice settlements are reportable to state licensing boards and the National Practitioner Data Bank, and will likely result in higher premiums.

In addition to your own malpractice coverage, consider getting coverage for your practice as well. While some carriers provide it at no additional charge, others charge substantial premiums for it. It may be worth the additional cost, though, if your practice has significant assets at risk, such as equipment or accounts receivable. First, however, find out exactly what's being covered: Does the policy cover acts by the practice's physicians, or only its nonprofessional employees? Does it provide separate coverage limits for the practice and the physician-defendants?

Finally, since the subject is complex, and policy language is often unclear, consult with your own broker, financial adviser, or attorney before making a final decision. ■

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