



**THE OB/GYN'S GUIDE
TO FINDING MEDICAL
MALPRACTICE INSURANCE**

What are the risks?

Purchasing medical professional liability insurance is not at the top of any physician's list of favorite things to do, but it is necessary and an important protection for your practice. And, as the saying goes, anything worth doing is worth doing well. As a physician specializing in Obstetrics and Gynecology, it is imperative that you have the right coverage for risks and exposures that are unique to your specialty. So, take sometime out of your busy schedule and approach the task as you would any significant decision concerning your practice: Do your research, consider all the options available, seek advice from a trusted expert, and choose with confidence the best coverage that brings the most value.

You probably already know that OB/GYNs are considered a higher risk specialty than others by medical professional liability insurance companies, but why? What are insurance underwriters considering when looking at the risks associated with insuring an OB/GYN?

The first consideration is related to surgical classes. Most insurance companies have rating classes for office gynecology without surgery, gynecology with minor surgery, or gynecology with major surgery. Obviously surgical procedures carry a higher risk of error, and the more invasive procedures bear higher risk of an unwanted or unexpected outcome. A bad outcome doesn't necessarily mean a doctor was negligent, but a patient can sue for malpractice for any reason. OB/GYN practices, including deliveries, fall into one of the higher surgical classes among insurance companies. This higher categorization is because both the mother and the child are exposed to risk, and there are many things that can happen – from prenatal care through the delivery – that could potentially cause a malpractice claim.

The second area insurance companies consider when underwriting an OB/ GYN for a medical malpractice insurance policy is the statute of limitations for filing a malpractice claim. In most states patients have two to three years from the date of care or procedure to file a malpractice claim. This time is allowed because often a patient discovers a problem months or even years after the event. But there are exceptions to the statute of limitations. In some states patients have two (or sometimes three) years after "the date of discovery," which leaves the time limitation practically open-ended. With surgery, there are exceptions that extend the statute of limitations if a foreign object is left in a patient after a procedure. Another exception to the rules is in the care of children. Most states allow claims to be filed up until a child is 18 or even 21 years old; so in the case of a delivery it is possible for a claim to come in many years after the incident.

In addition to these two main underwriting considerations, insurance companies have defended OB/GYNs from malpractice claims for Failure to Diagnose a C-Section in a timely manner, Failure to Diagnose cancer, Shoulder Dystocia, Brain Damage, Cerebral Palsy, and many other "injuries" that occur or seem to have occurred during the delivery. The potential for a claim to arise is simply much

greater for OB/GYNs than for a lot of other medical specialties.

Because there is exposure to more risk, insurance companies underwrite OB/ GYNs more carefully and charge a higher premium than they do for lower risk specialties. That is why it's important for you to do your due diligence in finding the best coverage and the best value.

Here's a little-known secret:

Send a copy of an up-to-date CAQH profile for yourself to eQuoteMD and go on to Step 2. Yes, it really is that easy. Everything a medical malpractice insurance company wants to know about you for underwriting purposes is contained in your CAQH, and eQuoteMD can help you avoid the paperwork and application process by submitting it for you.

Let's get started!

1 RESEARCH

This is where a lot of physicians get overwhelmed, but it's really not that big of a deal. It's admittedly tougher than sipping a drink poolside, but definitely not as difficult as doing your taxes either. Don't make the mistake of procrastinating on this project! Start working on the process at least 60 days before your effective date or renewal date. It won't take that long, but you'll be glad you've given yourself time to make an unhurried decision. To begin, there are some documents that you need to get your hands on -- or better yet, gather the "paperwork" electronically and put it all into a folder on your computer desktop labeled "Med Mal." That way you'll have it all in one place for next year and you can add any new or related material throughout the year. Most insurance companies are attempting to go paperless these days anyway so they are happy to accept emailed electronic applications -- plus, you'll save some trees!

Whether you are attempting to obtain coverage for the first time or looking to switch to a different company, the initial step is to pull together some basic information. If you are part of a large group of doctors, make sure everyone gets this information together so you can apply for coverage as a group. Often insurance companies will offer group discounts, which could help everyone save money. If you are in a solo practice the quote process will be even easier. Whether you're in a group or solo practice, you can get a rate indication with very little information, but if you want official quotes from multiple carriers here's what you'll need:

- Declaration Page or Face Sheet of your current policy showing the effective date, liability limits, retroactive date, policy number, etc. If you don't have this, contact your agent or broker and ask them to email a copy to you.
- Loss Run for previous 10 years, which is a history of your malpractice claims. Again, if you can't find it your broker should be able to email a version to you within a day or so.

- Copy of your updated CV
- Copy of your Medical License (or at least the license number)
- Copy of your DEA License (or the number at a minimum)

If you have a corporation make sure you include your tax ID number. There are a couple of ways to cover a business entity. The least expensive way is to add the corporation as an additional insured on the malpractice policy. This is usually added for a small premium or sometimes even with no additional charge. The drawback to this is that the physician and the corporation will be sharing one liability limit. To avoid that situation, you can add the corporation with its own liability limit. It is more expensive, but if there are multiple physicians and nurse practitioners in the practice it's the best way to ensure you have enough coverage.

That's it! Once you've gathered all these documents, be sure to keep them all together for future reference.

2 CONSIDER THE OPTIONS

Now, depending on your state, you may have anywhere from three or four, even up to ten insurance companies that will write medical malpractice insurance for OB/GYNs. In today's malpractice insurance market there are a lot of options and many different types of insurance companies, but there are three main types most physicians will encounter:

- **Stock Insurance Companies** – owned by investors or stockholders. Stock companies are typically backed by a large amount of capital and attract investors if they are profitable.
- **Mutual Insurance Companies** – owned by policyholders or members. There are no shareholders. Many mutual companies give a percentage of profits back to members in the form of dividends or credits toward future premiums.
- **Risk Retention Groups (RRG)** – owned and controlled by a group engaged in similar or related practices, such as physicians that are in the same state or practice in the same specialty. Premiums are typically lower than other insurance companies. RRGs sometimes require a capital investment in addition to the premium.

So how do you know which one is best? You could try the shotgun approach and fill out an application and submit the information collected in Step 1 to all companies individually, or you could go to a broker and let them do the work for you. The advantage to the latter option is that a good malpractice insurance broker will know the market. They can tell you immediately which companies will cover OB/GYNs and which won't, which companies have policies tailored for your specialty, and which companies are competitively priced. Consulting with an insurance broker could save you quite a bit of time and will not cost you more money since brokers are paid by the insurance companies.

There are also two different types of professional liability policies to consider:

- **Claims-Made** – coverage is provided by the company the doctor is insured with when the claim is made. The event may have happened a few months or even a few years ago when the doctor was insured by another carrier, but the new company covers the claim. The advantage to this type of coverage is that it is less expensive than Occurrence coverage. Also it avoids the need to go back and find a company you were insured with in the past, which is important for OB/GYNs because claims can be reported many years after the care – sometimes even 18 or 20 years later, depending on the states' statute of limitations.
- **Occurrence** – coverage is provided by the company the doctor is insured with at the time of the event or occurrence. These policies are difficult to find in most cases and much more expensive. The advantage is that there is no need to buy Tail Coverage when the policy is cancelled.

Whether you go through a broker or not, you are eventually going to have to fill out an application. Many malpractice insurance applications can be completed online. Physicians are often intimidated (or irritated) by the length and depth of a malpractice insurance application. This can typically be avoided if your CAQH profile is complete and up-to-date and you go through a broker. Simply ask the broker to use that instead of the company's application. However, if your broker doesn't have the ability to use the CAQH you will need to fill out an application and sometimes more than one.

It doesn't have to be a chore. If you have an application that you've filled out previously, use it to help you complete the new one. Most applications ask for the same information but it might be in a different order. The easy questions are name, address, birthdate, social security number, medical license number, DEA license number, phone numbers, and email address – most of that you should have at your fingertips.

The more difficult information is the detail about practice plans, practice history, claims history (including dates, summary, and status of claims), current and previous malpractice insurance, education and training, and continuing education credits. The insurance company wants to see the complete picture of the risk they are underwriting.

There are two very important points to consider when applying for malpractice insurance:

First, be completely honest. Do not leave anything out or alter the truth in any way. The underwriter will check the information, and if it is not accurate, coverage will usually be denied. It could also come back to haunt you if you have a claim. If there is anything false in the application, the company can deny the claim and you are on your own.

The second significant point to remember is that the application is a snapshot of you given to the

insurance company underwriter. The underwriters don't normally meet physicians nor do they have the time to discuss background or ask questions about past history or future plans. Make sure your applications are:

- Neatly written or typed
- Thorough and complete
- Concise – providing explanations of any situation out of the ordinary

Don't forget to request coverage for your Prior Acts. Unless you are starting practice for the very first time, or you previously had an Occurrence Policy, you need to make sure your policy covers incidents going forward and backward. Coverage for Prior Acts is crucial because the nature of malpractice claims is that they come in months or even years after the event actually occurred. When switching to a different insurance company you need to make sure the new company will cover any claims that may arise from your past – your prior acts. A Claims-Made policy will have a Retroactive Date, which is usually the date you first started in private practice, and will show coverage included going back to that date.

Once you've submitted an application and all the necessary information you will usually hear back from the underwriter in a couple of weeks. They may come back and ask for more information or they may send you a quote. Many physicians believe all malpractice insurance companies are basically the same and just look for the lowest price, but that is a mistake, especially for high-risk specialties such as OB/GYNs.

Sure, price is important, but having a policy that will actually cover your claim and defend you against a lawsuit is more important than saving a few hundred dollars in premiums. Make sure you compare the companies and policies, or ask a broker to do it for you, and find out what's covered, and more importantly, what's not covered!

A broker can tell you about the history and track record of an insurance company as well, which could help guide you in the right direction and steer you away from disreputable companies.

As with any important decision, it's always a good idea to get some advice and direction from someone you trust. When picking out new furniture for the living room you'd probably ask your mom for help, or when choosing which outfit to wear to a party you'd ask your spouse. So, when choosing a malpractice insurance policy, talk to someone with experience in this area. First, ask your colleagues what company they use and why. Find out what kind of process they went through to make their decision. Of course, if you ask three different physicians you might get three different answers, but you may find a pattern that could be helpful. Another helpful resource could be your office administrator. Depending on experience, these people have often been the ones to do all the leg work for their physicians, and they can be helpful as a resource for advice in the area of medical malpractice insurance.

Hospital administrators can also be a good resource. In most hospitals there is an administrator responsible for physician relations. These are the people that recruit physicians for employment and

3 SEEK ADVICE

Keep a good rapport with the private practice doctors. Part of their job is to increase referrals from physicians in the network, so you can bet that the physician relations folks at the hospitals where you have privileges want to help you any way they can. They may not recommend a specific malpractice insurance broker or company, but they will be able to give you some options to consider and tell you who they trust.

Other great sources of advice are professional organizations. Are you a member of any local or national associations of OB/GYNs or other physician associations? Many of these organizations have endorsed programs for insurance and other products. They have typically vetted the vendors and made sure they are trustworthy. In addition, many of the endorsed companies will offer discounted rates to members of the group, which could help you save a significant amount of money.

Additionally, the department of insurance for your state may have some information online that could be helpful to you as well. If nothing else they usually have a list of medical malpractice insurance companies licensed in the state. Additionally, they will often show information about customer complaints or actions taken against the company, which could help you determine which companies to avoid.

Of course an independent insurance broker specializing in medical professional liability insurance will be the most knowledgeable source of advice. A broker that has been in the industry for a while will know the companies and their reputations for handling claims. You need to make sure you get a policy with a company that will aggressively defend you in the case of a malpractice lawsuit. Brokers don't handle the claims, but they are typically the first to be notified and will make sure the insurance company lives up to what it says it will do. That experience can help you determine the best insurance policy to purchase.

Brokers also have relationships and agreements with insurance companies that can help you get better rates. They are experienced negotiators as well, and will make sure that you get all the discounts available so you know you are getting the best deal. A broker's knowledge of the policy details and the underwriting process can work in your favor.

4 CHOOSE WITH CONFIDENCE

Now that you have received offers from several different insurance companies it's time to make a decision. At this point it may end up being a no-brainer. If you only have a couple of options and your broker or your colleagues make a recommendation, go with it. But it's not always that easy. Sometimes you have so many options to consider that it can be confusing. In that case, try this check

list to help you make your decision:

- What is the financial rating of the company, and if it is not rated why?
- What is the financial stability of the company?
 - Total Annual Premium Amount?
 - Total Assets?
 - Policyholder Surplus?
- What are the policyholder benefits?
 - Do they offer a customer loyalty plan such as a retirement fund?
 - Is there an opportunity to become an investor in the company?
 - Do they have a history of giving dividends to policyholders?
- How long has the company been in business?
- Is the company committed to staying in the medical malpractice insurance market?
- Are all the important policy features included?
 - Liability Limit as requested?
 - Prior Acts Coverage?
 - Consent to Settle held by physician?
 - Incident Trigger?
 - Free Tail Coverage for death, disability, or retirement?
 - Discounts available for risk management or years in practice without claims?
- Is additional coverage included in the policy? Some companies are adding a limited amount of coverage for the following:
 - HIPAA Violations
 - RAC Audits
 - Data Security Breaches
 - Billing Errors
 - Cyber Liability
- What coverage is specifically excluded in the policy? Do you need that coverage?
- Does the company offer Risk Management Programs?
 - Do they charge for Risk Management?
 - Do they give discounts for participation?
- Are there other features about the policy or company that make it stand out?
- How much is the premium?

Go through this checklist with each quote that you've received. If it's not clear on the quote page, call or email the underwriter and ask the questions. An independent broker should be able to go through this list and answer these questions for you easily. After comparing the policies and companies, it should be clear based on what's important to you which policy provides the best coverage at the best rate for your situation.

If you don't have a broker and would like some help, contact the experts at eQuoteMD!