

Time for a checkup?

While medical malpractice is an inherently complicated line of insurance, it holds plenty of opportunity for knowledgeable brokers

THE FUNDAMENTAL functions carried out by healthcare facilities and professionals are often overshadowed by the endless noise that surrounds the sector. In addition to saving lives and improving quality of life, the healthcare sector is a massive profit-making industry and a political football. While the

different from other businesses.

In most industries, a mistake can be fixed with a sincere apology or the recall of a product, whereas in healthcare, a mistake can sometimes lead to a lifelong disability or death. That's why medical malpractice policies play such a crucial role in keeping the

ries," says Joanne Gundersen, VP and medical malpractice lead at QBE North America. "The nature of claims in medical malpractice has remained consistent for our typical client, which is a medical facility that provides care outside of the acute care setting."


Despite a lack of surprise in the types of claims being lodged, Gundersen has seen an increase in large, severe claims in hospital settings. Batch claims, where multiple claimants arise in one particular setting, are also becoming more common. In order to minimize the costly losses associated with such claims, Gundersen and her team analyze trends and claims data and then create risk management solutions specific to each client.

"It's important to tailor the policy to the specific needs of the client and to be flexible to the coverage needs," Gundersen says. "That's how we built our policy form. It's almost like building blocks, where you can add on or take off coverage as needed. Professional liability is always the base, but a client may or may not want general liability. They can turn on or off features like sexual misconduct and choose whether the policy is claims-made or occurrence in nature. It's all about specializing and being flexible."

Coverage costs

Medical malpractice policies cover a wide range of expenses associated with malpractice suits, including attorneys' fees and court costs, arbitration costs, settlement costs, punitive and compensatory damages, and medical damages. The coverage also pays damages if a physician is found liable, but it doesn't cover liability arising from criminal acts or inappropriate alteration of medical records.

The price of coverage can vary wildly, depending on a physician or facility's area of expertise; specialties that are sued most often face the highest insurance premiums. According to 2017 data compiled by Capson Physicians Insurance, specialists were more likely than primary care physicians to have

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Karl Olson, Burns & Wilcox Brokerage

people who work in healthcare facilities are driven by a desire to help others in need, organizational leaders are propelled by the need to keep growing revenues.

Hospitals and other healthcare facilities are businesses, and are run as such. They are often staffed by overworked caregivers, physicians and surgeons who struggle to keep up with the workload. But despite facing the same challenges as businesses in other sectors, healthcare is fundamentally

US healthcare system running smoothly. The coverage enables medical professionals to carry out their tasks safe in the knowledge that an honest mistake will not lead to financial or reputational ruin. Carrying medical malpractice insurance is vital for physicians and is required by law in most states.

"The most common medical malpractice claims are related to failure or delay in diagnosis, failure to treat or improper treatment, surgical errors, patient falls, and birth inju-

THE BEST AND WORST STATES FOR MEDICAL MALPRACTICE

STATES THAT PAY OUT THE MOST IN MEDICAL MALPRACTICE CLAIMS
(\$ per capita, 2017)



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Source: Diederich Healthcare

been named in a malpractice lawsuit. Surgeons and OB-GYNs led all other specialties: A massive 85% of specialists in both groups have been sued at least once during their career.

Capson reports that, on average, medical malpractice insurance can cost OB-GYNs anywhere from \$85,000 to as much as \$200,000 per year, while for cardiovascular and neurosurgeons, coverage can cost between \$50,000 and \$150,000 per year.

Capson also found that, among general practitioners, 42% physicians faced at least one claim by age 45, and 77% faced at least one claim by age 65. Medical malpractice insurance can cost those doctors anywhere from \$8,000 to \$50,000 per year. Across all specialties, an estimated 7% of physicians have a claim annually, and 2% make an indemnity payment; the median indemnity payment is \$111,749.

Emerging trends

Uncertainty around the future of the Affordable Care Act is creating confusion

for all parties involved in the healthcare industry. So far, the ACA has proven resilient against Republican efforts to repeal it and the Trump administration's attempts to defund it. However, with premiums projected to soar by an average of 15% in 2019, the future does not look positive for the ACA.

As it stands now, though, the ACA has provided more patients with access to health insurance, which has placed increasing pressure on the healthcare system.

"We have seen increased use of mid-level providers, such as nurse practitioners and physician's assistants, to take the pressure away from the MDs," Gundersen says. "We also have customers looking for integrated products; they want one-stop shopping. That's why, in addition to the traditional features, we are offering managed care errors and omissions and management liability like D&O."

Changes in the way care is delivered, thanks to technological innovations such as electronic medical records and telemedicine, are also having a significant impact on

SECTOR FOCUS: MEDICAL MALPRACTICE



medical malpractice claims. The evolving nature of reimbursement methods has been another major influencer on the industry, explains Karl Olson, VP and professional and management liability practice leader at Burns & Wilcox Brokerage.

“Reimbursements heavily impact any

Another trend in the industry is the creation of new facilities outside the traditional hospital setting, such as long-term care and specialized care facilities, surgicenters and urgent care clinics, which Olson believes presents compelling new opportunities for brokers and agents. First, however, brokers

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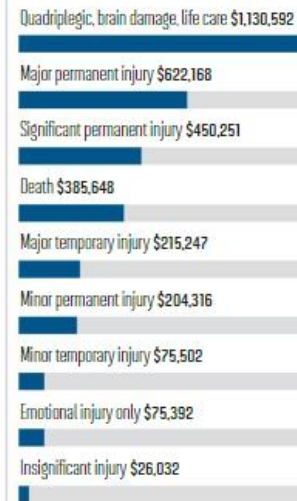
Joanne Gundersen, QBE North America

healthcare organization’s ability to sustain operations,” Olson says. “Influences include changes to Medicare reimbursement rates, the ongoing changing perceptions of the Affordable Care Act, transparency of billings, costs of pharmaceuticals and costs to comply with complex regulations.”

and agents need to develop an understanding of how the healthcare system operates and the pain points faced by medical facilities and the professionals that work for them.

“There are challenges in working with healthcare entities and medical providers, and brokers and agents should be mindful that the

AVERAGE MEDICAL MALPRACTICE PAYOUTS



Source: Statista Healthcare

business of providing healthcare is immense and ever-evolving, with recent changes that have not been all positive,” Olson says. “Many research reports suggest that more than 50% of physicians feel burnt out and that over-regulation limits their ability to provide a high level of care.”

Olson also encourages brokers and agents to get to know the healthcare environment in their region. What carriers are active in their state? What ancillary coverages are important to healthcare providers: D&O, cyber liability, managed care errors & omissions, or provider excess/stop loss?

“Partnering with an experienced wholesale broker with carrier relationships and market intel will help win deals and acquire customer relationships,” Olson adds. ■