

Professional Indemnity Cover: MDOs v Insurance Policies

Healthcare professionals are committed to delivering a high standard of care to their patients but, as with all professionals, mistakes can be made.



Medical Malpractice is professional negligence by a healthcare professional and refers to the misdiagnosis or incorrect treatment of a patient, which may have caused injury or death.

To protect against subsequent legal action alleging a failing in professional duty, and provide a financial safety net, healthcare professionals take out Medical Malpractice or Professional Indemnity protection to cover legal costs and expenses incurred in their defence, as well as any damages or costs awarded. It is often a requirement of a professional or regulatory body to hold this cover but where it is optional, its presence provides reassurance to both the client and the professional.

Options available

Most healthcare professionals use one of three Medical Defence Organisations (MDOs) for their cover but not many know it is not compulsory to do so. Estimates vary, but it is thought that 97% of professionals get protection from MDOs with the remainder covered by insurance-backed contracts.

In fact insurance-backed cover, which is the norm in most other countries in the world, is a perfectly acceptable alternative, and the fact that unlike MDO cover protection is legally enforceable, has prompted more and more professionals to consider insurance-backed cover for specific areas such as Out of Hours.

MDOs v Insurers

MDOs are mutual, non-profit making organisations, owned by their members. The cover they offer is discretionary, so claims are only settled after agreement by the Board. This lets them consider each case on its merits but also allows them to decline to assist.

Insurers that provide Medical Malpractice cover range from blue-chip, household names to specialist, Lloyd's of London syndicates. Insurance-backed contracts are regulated by the FCA and enforceable by law. They give clear definitions of what is and isn't covered so the insurer cannot avoid a response if the claim falls within the terms of the insurance.

For organisations like provider companies and federations that require protection against the actions of their employees (known as vicarious liability), there is a greater array of choice. Many insurers offer vicarious liability and MDOs have reacted to market demands for this cover. However, the nature of discretionary cover means it does not always satisfy contractual provisions of provider companies and federations.

Rising Costs

There has been much coverage in trade and national media about the rise in professional indemnity costs from MDOs for GPs. According to a [Pulse survey of 900 UK GPs](#), indemnity fees rose by an average of 26% in the 12 months up to November 2015. The increase could be even higher, as a large number of GPs said their fees had decreased because they had had to reduce the number of shifts they worked. More than one in 10 respondents said their fees had more than doubled, and more than a quarter saw hikes in excess of 40%.

Insurance-based Medical Malpractice cover is available from many insurers, either directly or through brokers so market forces ensure that customers are able to shop around to get a good deal, keeping prices competitive.

Transferring the risk

Society is increasingly compensation-minded and for healthcare professionals, the risks can be more than just financial. In the worst case the failure to diagnose or spot a condition can lead to death, paralysis or life changing outcome. While protection cannot undo the physical outcomes, it can offer compensation and aid in dealing with the morality of the issue.

Aside from the financial implications associated with an allegation of wrongdoing, healthcare professionals are beginning to recognise that the stress and time involved are more than enough reason to transfer the risk to an insurer.

For more information about insurance-based Professional Indemnity or Medical Malpractice cover, or for a no-obligation quote, please contact Montrose Bill on 01438 870735 or montrose.bill@miab.co.uk.