Business Health for Healthcare Businesses:
HOW INSURANCE KEEPS YOU STRONG
# TABLE OF CONTENTS

## Business Health for Healthcare Businesses:
How Insurance Keeps You Strong

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>How Business Insurance Protects Allied Health Practitioners</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Which Common Risks Threaten Medical and Healthcare Professionals?</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Which Insurance Policies Meet the Needs of Sole Proprietors and Independent Healthcare Practitioners?</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>General Liability Insurance</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Property Insurance</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Business Owner’s Policies</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Umbrella Liability Insurance</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>Health Insurance</td>
<td>14</td>
</tr>
<tr>
<td>2</td>
<td>How Insurance Can Save Your Medical or Healthcare Practice Millions</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Malpractice Insurance for Healthcare Professionals</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Malpractice Insurance and Claims-Made Coverage: Special Notes</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Malpractice Insurance Policy Limits for Healthcare Professionals</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Medical Malpractice Statutes of Limitations</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>State Laws and Malpractice Insurance</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Cyber Liability Insurance for Allied Health Professionals</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>Data Breach Examples: It Could Happen to You</td>
<td>23</td>
</tr>
<tr>
<td>3</td>
<td>How to Fill the Gaps Left by Standard Insurance Policies</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>Extended Reporting Period (ERP) Endorsement / Tail Coverage</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Prior Acts Endorsement / Nose Coverage</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Why Starting and Stopping Malpractice Insurance Never Pays Off</td>
<td>26</td>
</tr>
<tr>
<td>4</td>
<td>How to Comply with HIPAA Regulations and the HITECH Act</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>HITECH Act: What Allied Health Professionals Need to Know</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>HIPAA and HITECH Compliance Tips for Private Healthcare Practitioners</td>
<td>31</td>
</tr>
<tr>
<td>5</td>
<td>How to Find Business Insurance for Your Medical or Healthcare Practice</td>
<td>33</td>
</tr>
<tr>
<td>6</td>
<td>How to Keep Your Insurance Rates Low</td>
<td>36</td>
</tr>
<tr>
<td>7</td>
<td>When to Update Your Business Insurance Policies</td>
<td>39</td>
</tr>
</tbody>
</table>
Allied health professionals—from physicians, dietitians, and nurse practitioners to dentists, ophthalmologists, and occupational therapists—know all too well that the responsibility of improving their patients’ lives comes with inherent risks. If appropriate standards of care are breached, a patient could suffer serious consequences and your practice could buckle under the financial weight of a malpractice suit.

You’ve worked too hard to build your medical office to let that happen. Even if you’re a sole proprietor or independent contractor, you still have to protect your healthcare practice from risk if you want to keep your patients healthy and your bank account safe.

Allied health professionals who want to run a successful practice can use the information in this guide to safeguard themselves from the liabilities, property damage, and HIPAA violations that threaten medical practices of all sizes.

By the end of this guide, you’ll have a solid idea of how to keep your practice safe from the major threats you face. Specifically, you’ll know…

- How business insurance protects allied health practitioners.
- Which common risks threaten medical and healthcare professionals.
- Which insurance policies meet the needs of sole proprietors and independent practitioners.
- How insurance policies can save your practice millions.
- How to fill the gaps left by standard insurance policies.
- How to comply with HIPAA regulations and the HITECH Act.
- How to find small business insurance.
- How to keep your insurance rates low.
- When to update your policies.

Plus, you’ll find infographics and other resources that will help you manage risks from both a commercial and regulatory standpoint. Keep reading for the ins and outs of protecting your business!
Chapter 1:

How Business Insurance Protects Allied Health Practitioners
How Business Insurance Protects Allied Health Practitioners

Business insurance provides a financial safety net for your medical practice. It protects the investments you’ve made by minimizing financial risks linked to lawsuits, theft, and natural disasters.

Just as your patients carry health insurance to help them afford treatment, you can use business insurance to help you afford the costs associated with malpractice suits, property damage, and data breaches. In exchange for your premium (i.e., the yearly price of your policy), your insurance policies cover the cost of...

- Legal defense fees when your practice is sued.
- Settlements or judgments.
- New gear or repairs when your equipment or office is damaged by a covered event.
- Business interruption.
- Cyber extortion.

According to the Small Business Administration, an estimated 25 percent of businesses never reopen following a major disaster because they don’t have the funds they need to survive the unexpected hit. And the Insurance Information Institute affirms that 40 percent of small business owners have no insurance at all, citing tight budgets as their reason for foregoing coverage. But without adequate insurance, you risk losing your livelihood and assets.

That’s why it’s important to think of commercial coverage as an investment rather than an expense. For the price of monthly premiums, you can help ensure your business’s long-term success.

Which Common Risks Threaten Medical and Healthcare Professionals?

From a risk management perspective, healthcare professionals experience some of the most complex work environments. Why? The liabilities and regulations in the medical field are varied, intricate, and rigorously enforced. Whether you’re a primary care doctor,
You must adhere to federal laws and state licensures just to open a practice. Then there are ethical codes, safety precautions, and standards of care to observe.

Solid risk management planning means identifying these threats, assessing and deciding which ones necessitate action, and deciding what action to take. As you build a business protection plan for your private practice, it’s important to know where your vulnerabilities lie. Usually, those vulnerabilities are closely linked to the details of the work you do.

Here are some aspects of your medical practice to consider when building your risk management plan.

• **Confidentiality.** As a healthcare practitioner, you’re charged with the safekeeping of your patients’ sensitive health information – and that’s not only an ethical responsibility, it’s also a legal one. You keep your patients’ records private out of respect for how that information could affect the patients’ autonomy, relationships, and livelihood. Plus, there’s the Health Insurance Portability and Accountability Act, or HIPAA, to consider. HIPAA defines exactly which information can be released and to whom. Practices that violate HIPAA (through cyber leaks or mistakes on your part) trigger fines and penalties. Data Breach Insurance can help ensure that your sensitive information is protected from cyber attacks or online leaks – but we’ll delve into that in the next section.

• **Malpractice.** As a healthcare practitioner, no matter your area of expertise, you always face some risk of a malpractice suit. If you misdiagnose an ailment or make an oversight in your treatment and that mistake causes physical harm or financial losses to a patient, they might sue. To avoid the risk of litigation, many healthcare practitioners employ “defensive medicine.” For example, a physician may order a test or perform a procedure primarily to ensure that all bases have been covered so the patient cannot allege negligence. Some states require that all allied health professionals carry a minimum amount of Malpractice Insurance in order to practice in the first place (more about that in later sections).

• **Consent.** For treatment to be legal, patients must provide informed consent. If a procedure is performed without proper consent, you could be charged with assault. The first instance of such a case was the landmark 1914 New York Court of Appeals case, Schloendorff v Society of New York Hospital.
The case involved a physician who removed a malignant tumor against the wishes of his patient and was charged with battery. Ever since that ruling, it’s been illegal for physicians to perform an operation without a patient’s consent, lest they be guilty of assault. Regardless of the nature of your patients’ ailments, if they are the appropriate age for giving consent, it’s necessary that they understand their options and that they sign waivers before you move forward with your recommended treatment plan.

- **Compliance.** Depending on your profession, your state may have an in-depth licensing process you need to complete before you can practice medicine there. Laws vary based on your location and field; however, if you’re a doctor, all states mandate that you be licensed. Some states have recently passed legislation that allows medical boards and medical directors of managed care organizations to make medical and treatment decisions across state boundaries. You’ll want to check with your state’s medical board to see if you need a license to practice before you begin offering your services to the public. (For more on this topic, see the insureon blog post “Liability Issues for Therapists Who Offer Distance Therapy.”)

- **Personal liability.** If you are the sole proprietor of your medical practice, there is no legal distinction between you and your business. That means if you’re successfully sued for malpractice and you don’t have enough in your business coffers to cover the costs, your personal finances and assets can be collected to settle the judgment. To separate your personal and business assets in the eyes of the law, you can establish your practice as a limited liability corporation (LLC). If you prefer to be a sole proprietor, Malpractice Insurance can pay for lawsuits.

- **Business liability.** Whether you’re a sole proprietor or independent contractor, offering your services to patients opens your business to liability risks. For example, if you own your medical office, that space becomes a liability when someone slips, falls, and breaks a leg. You need General Liability Insurance to cover the claim if they sue for damages. Plus, there’s property damage to consider. If a fire destroys your premises, would you have the funds to cover the high costs of repairs and equipment replacement? If you don’t have adequate Property Insurance, you run the risk of never recovering from a disaster and closing your business doors for good.

But even if you take all the requisite precautions and safety measures, your healthcare practice could still be sued. Though medical malpractice suits only succeed 20 percent of the time, settlements...
and judgments in such cases are higher than in most other tort cases. That means if you’re on the losing end of such a case and you don’t have adequate risk planning in place, you could be faced with millions of dollars in debt. Check out this helpful infographic by AboveTheLaw.com to learn more about the American tort system and how the high rate of litigation affects your medical practice.

### Which Insurance Policies Meet the Needs of Sole Proprietors and Independent Healthcare Practitioners?

First things first: let’s recap what we mean by “sole proprietors” and “independent contractors.” According to the U.S. Small Business Administration, a sole proprietorship is an unincorporated business owned and run by you and only you. There is no distinction between you and your business, meaning you’re entitled to all profits your practice makes and are responsible for all your business’s debts, losses, and liabilities.

The SBA defines an independent contractor as a person who has control or the right to control both the work done and the manner and means in which it is performed. There are several other factors that help determine this status, but as a rule, if you set your own hours, use your own equipment, control the manner of your work, and have the ability to hire your own employees, you are an independent contractor.

So as a medical practitioner who is an independent contractor or the sole owner of a private practice, you may have fewer insurance obligations than business owners with employees. For example, because you’re self-employed, you don’t need Workers’ Compensation Insurance, which pays for medical bills and foregone income if your employee suffers an occupational injury.

But some coverages are essential for self-employed medical professionals. Your line of work, the scope of your practice, and where you live will determine which insurance policies you need. Take a look at the following general coverage types for self-employed allied health professionals:
General Liability Insurance for Sole Proprietors and Independent Contractors

General Liability Insurance (GL) is one of the first policies you’ll need to safeguard your business. This policy offers a foundational layer of coverage for some of the most common third-party liability risks a business owner faces: bodily harm that happens on your premises (but is unrelated to your services), property damage, and personal injuries. GL covers legal defense costs, settlements and judgments, docket fees, and other court expenses (up to your policy limits).

A “third party” is anyone who doesn’t work for your practice or your insurance company: patients, clients, patients’ family members, and even deliverymen could sue your business. When that happens, your GL policy can cover lawsuits over…

- **Premises Liability.** Because your office is open to the public, anyone could walk in, slip, and break a bone – and then slap your practice with a lawsuit to cover their medical expenses. Because this is one of the most common tort claims, General Liability Insurance is sometimes called “slip-and-fall” insurance. According to the National Safety Council, slips and falls are among the leading causes of unintentional injuries in the United States. Each year, these injuries trigger approximately 8.9 million visits to the ER.

- **Property Damage.** When you work on someone else’s property, there’s always the chance that the unfamiliarity of your surroundings could lead to accidents. Say, for example, while setting up a home oxygen tank, you knock a laptop off the bedside table. General Liability Insurance can cover the cost of replacing your patients’ property if they sue for damages, so long as the property was valuable enough and damaged while you delivered your services.
• **Personal Injuries.** If you advertise your medical services, beware of competitors! Should they accuse you of copying their advertising and sue for damages, your GL can cover the cost of litigation. It can also cover lawsuits over character damage due to libel or slander. For more on your advertising injury exposure, visit the insureon blog’s special section on Advertising Injury.

If you’re an independent contractor who operates from home – say, from a home-based marriage counseling office – you’ll want to note that your Homeowner’s Insurance policy will not cover bodily injuries that happen on your property. Even if you have liability coverage included in your policy, it will not cover business-related liabilities. That’s why General Liability Insurance is a must-have protection.

The cost of General Liability Insurance for independent contractors and sole proprietors depends on the services you offer, how long you’ve been in practice, your claims history (if applicable), and the amount of revenue you generate. If you run a one-person business, you only have to cover yourself with your policy, which saves you money. Your premium for General Liability Insurance could cost between $500 and $10,000 a year. For more concrete insurance quotes, you can apply for a free insurance quote online.

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**Property Insurance for Sole Proprietors and Independent Contractors**

Property Insurance shields your commercial equipment from loss or damage due to fire, theft, windstorms, and power outages. Because you’ve invested a substantial amount of money in your equipment – be it MRI machines, excimer lasers, computers, or your office building – you need coverage that assures you won’t have to start from scratch when disaster strikes.

Property Insurance is especially important for business owners because you don’t rely on an employer to supply your equipment. That’s why you should select a commercial Property policy that covers the assets you need to run your healthcare practice. You’ll want a plan if you…

• **Own commercial real estate.** Your commercial property is an investment – and because you own the premises,
you are responsible for making any repairs or replacements necessary after a storm or fire. But construction costs have increased significantly in the United States in recent years. That means even a small repair can result in unexpectedly high costs. Fortunately, Property Insurance can cover the cost of repairing your building and replacing its contents (e.g., tools, equipment, fixtures, and furnishing) after a covered event.

- **Operate a home-based office.** Are you an acupuncturist who treats clients in a home office? If so, you may have assumed that your Homeowner’s Insurance would cover the cost of replacing damaged or lost business property. However, most Homeowner’s policies do not cover commercial items, and some won’t cover the space you use in your home for business (an average of 250 square feet for most home-based entrepreneurs). You can include an In-Home Business rider to your Homeowner’s policy, but you can receive broader coverage for your commercial property with a separate Business Owner’s Policy. To learn more about what Homeowner’s Insurance covers, check out the handy infographic “Is Your Home-Based Business Covered?” on insureon’s blog.

- **Rent an office or building.** While it’s true that most landlords protect their real estate with Property Insurance, it’s essential to check your lease agreement to be sure. Chances are, even if the building is protected, your commercial furnishings, fixtures, media devices, and medical equipment are not. That means you need to find a plan that can protect the gear you depend on to serve your clients.

- **Own expensive or specialty equipment.** Medical equipment can be extremely expensive. For ophthalmologists, an excimer laser eye surgery machine alone can cost hundreds of thousands of dollars. Needless to say, after you’ve made such an investment, you don’t want to shell out another hundred grand after a fire ravages your office building. When you have expensive equipment to protect, you’ll want to pay close attention to whether your Property Insurance offers replacement-value or actual-cash-value coverage. Replacement-value coverage costs more, but it also pays out more, so you’ll be able to replace or repair your items based on what they would be worth brand-new. Actual-cash-value coverage costs less, but only pays for the amount your depreciated items are worth at the time of the claim.

As mentioned earlier, many small-business owners underestimate their insurance needs and suffer the financial consequences when a
disaster hits. To ensure your practice survives the unexpected, be sure to find an insurance plan that covers the essentials.

One final note about Property Insurance: you’ll notice we didn’t list hurricanes, flooding, or earthquakes as covered events. That’s because most standard plans explicitly exclude water-related property damage. So what’s a health practitioner to do if they live in a flood-prone area? Talk to your insurance agent. He or she can tell you about event-specific endorsements available to fill your Property gaps.

**Business Owner’s Policies for Sole Proprietors and Independent Contractors**

A Business Owner’s Policy (or BOP) is a bundled package that combines General Liability Insurance and Property Insurance for one affordable premium.
In order to qualify for a BOP, your small healthcare business must NOT...

- **Have large offices or lots of employees.** Because BOPs are tailored for small-business owners, there is a limit to the square footage and number of employees you can have and still qualify for this plan.

- **Work in a high-risk environment or workplace.** Typically, medical offices are considered low-risk, whereas construction sites would be considered high-risk.

- **Need more than a year’s worth of Business Interruption Insurance.** This coverage can be added to the Property Insurance portion of a BOP. A Business Interruption Insurance policy offers funds to replace income you’re unable to earn when you’re forced to temporarily close by a covered Property event. The compensation you receive is based on past earnings.

Most small private practices and medical offices can easily meet the requirements for a BOP. In return, they save money on their protection plan and still enjoy essential commercial coverage.

**Umbrella Liability Insurance for Sole Proprietors and Independent Contractors in Healthcare Fields**

_Umbrella Liability Insurance_ (or Excess Liability Insurance) isn’t like the other plans we’ve discussed so far. This policy can be thought of as an “extension” of your other policies. For one low-cost premium, your Umbrella policy can add an additional cushion to multiple underlying liability policies in increments of $1 million. You may consider an Umbrella policy if you want to...

- **Boost your coverage.** You can put your Umbrella benefits toward expenses covered by your General Liability Insurance and your Employer’s Liability Insurance (part of your Workers’ Compensation plan, if you have one!), if you face a lawsuit whose costs exceed those policies’ limits.

- **Save money.** An Excess Liability policy often costs only a few hundred dollars per year and offers additional coverage in one-million-dollar increments.

- **Strengthen your business protection plan.** Higher coverage limits mean more security if you are ever sued in a General Liability or Employer’s Liability suit.
How does Umbrella Insurance work? Consider this example.

Let’s say that a visitor enters your chiropractic office and catches his foot on your welcome mat. From the fall, the visitor suffers a head injury and has to miss six months of work. He sues your practice for the medical costs, his lost earnings, and pain and suffering. The court finds in his favor, and also decides you have to pay his legal fees. Altogether, the bill comes to $1.2 million, past your General Liability Insurance’s limits ($1 million). An Umbrella Insurance policy will cover the additional $200,000 so you don’t have to dip into your personal finances.

A final note about Umbrella Insurance: this policy, though versatile in many ways, cannot be applied to your Malpractice Insurance. If you’re looking for a cost-effective way to raise your Malpractice limits, be sure to get in touch with your insureon agent for advice.

Health Insurance for Sole Proprietors and Independent Contractors

As an independent healthcare contractor or self-employed medical professional, you’re responsible for securing your own health insurance plan. And with Affordable Care Act requirements, you no longer have the option to simply forego coverage until a later date. However, as a self-employed business owner, you can fulfill the new health insurance requirements by purchasing a policy on the SHOP Marketplace. Though you can’t be turned away or charged more for pre-existing conditions, as of the time of this publication, it’s uncertain whether your plan can cover work-related injuries. Typically, occupational injuries are not covered under personal health insurance plans.

If the Marketplace plans do not cover work-related ailments, there is another option to give yourself the occupational injury coverage you need through Workers’ Compensation Insurance. You’re not legally required to carry it if you don’t have employees, but most states allow sole proprietors to purchase the coverage for themselves and to prepare for the option of hiring employees in the future. When you only have yourself to cover, though, you may qualify for a discounted premium rate or benefit from certain tax incentives, such as deducting your coverage costs from your income.
Chapter 2:

How Insurance Can Save Your Medical or Healthcare Practice Millions
How Insurance Can Save Your Medical or Healthcare Practice Millions

Now that we’ve covered the insurance policies that most business owners – regardless of their field – would carry for basic business protection, it’s time to explore the policies that are essential to allied health professionals in particular. These include…

- Malpractice Insurance.
- Cyber Liability Insurance.

Keep reading to discover why these policies are essential for medical professionals and how they work to protect your practice.

Malpractice Insurance for Healthcare Professionals

As a healthcare practitioner, you’re probably all too aware of the horror stories and devastating payouts that can result from medical malpractice suits. For example, take the case of a Florida woman who was given too many drugs to stimulate labor. Her unborn son was starved of oxygen, and as a result, was born with cerebral palsy. In 2012, a Florida House of Representatives panel approved the boy’s $31 million claim, making the landmark case the largest payout in the state’s history.

Though the case is exceptional for its staggering price tag, it’s a perfect example of just how high the stakes are when you’re responsible for a person’s health. A study funded by the RAND Institute of Civil Justice found that the average amount paid on a malpractice claim by the defendant was about $275,000. For a pediatric claim, the average was more than $520,000.

When you’re a sole proprietor or the head of an LLC, that amount can be enough to shut down your practice for good if you don’t have adequate Malpractice Insurance. Malpractice Insurance, also known as Professional Liability Insurance and Errors & Omissions Insurance, protects you when you’re sued for mistakes or errors in your work. It covers legal defense costs, settlements or judgments, expert witness fees, and more.
Malpractice Insurance can cover lawsuits alleging your practice...
- Failed to adhere to accepted standards of care.
- Made mistakes or oversights while delivering services.
- Provided shoddy or incomplete work.
- Failed to obtain informed consent.
- Was professionally negligent.

Say, for example, you own an optometry practice. You evaluate a child during a routine eye exam and prescribe a pair of corrective lenses. But down the road, the girl’s pupil turns white, and after the child’s parents consult a specialist, they find the cause of the ailment is retinoblastoma. Turns out, you missed a few opportunities to properly diagnose her condition. You could have performed a dilated fundus examination using binocular indirect ophthalmoscopy. And because she was a new patient, the accepted standard of care is to perform a routine dilation. The parents decide to sue your practice for $1 million for the ongoing medical treatments their daughter will have to undergo due to your misdiagnosis.

According to a study by Johns Hopkins University School of Medicine, such a scenario could happen to your practice. The researchers found that the most common allegations associated with malpractice payouts were diagnosis-related, clocking in at 34.2 percent of the cases they reviewed.

And although medical malpractice claims are among the least common tort cases (according to the National Center for State Courts (NCSC), only 2.8 percent of all civil torts are medical negligence cases), they are the most costly. (For a full rundown of the cost of malpractice cases by profession, be sure to check out the National Practitioner Data Bank’s website.) That’s why it’s imperative to protect your practice with adequate coverage as soon as its doors open so you don’t have to face the high cost of litigation on your own.

Source: http://www.justice.org/cps/rcde/justice/h5.xsl/8679.htm
Malpractice Insurance and Claims-Made Coverage: Special Notes

Most Malpractice Insurance policies are offered on a “claims-made” basis. Traditionally, this means that you can only receive compensation for covered events if your policy is in force both at the time of the incident AND when the claim is reported. (For a detailed explanation of claims-made coverage, read our blog post “What Is Claims-Made Insurance Coverage?”)

In most cases, a claim is any notification presented to you – be it an email or a conversation – about an incident that could be covered by your Malpractice Insurance. For example, if one of your patients says they feel they’ve been the victim of your negligence, that conversation could constitute a claim – even if the patient doesn’t move forward and file a Malpractice lawsuit.

But for the sake of this scenario, let’s say your patient does file a lawsuit. You treated your patient and a medical accident happened on July 1, 2008, but that patient waited two years to tell you that your negligence is to blame for their continued physical suffering. This claim happened on July 1, 2010, and you promptly notified your insurer. However, the lawsuit over the alleged incident was not filed until July 1, 2012. This claim would be covered by:

- A claims-made Malpractice policy covering 2010, IF the policy covers potential claim notices AND the policy’s retroactive date is no later than July 1, 2008.
- A claims-made policy covering 2012, IF the policy defines claims as those initiated by a third party with a demand for money, AND the policy’s retroactive date is no later than July 1, 2008.

The takeaway here is that you must carry Malpractice Insurance continuously. You don’t want to leave your practice uninsured, only to have an incident from years ago lead to a lawsuit.

This is pretty complex stuff, so if you have questions about how claims-made status affects your Malpractice Insurance benefits, don’t hesitate to contact an allied health insureon agent at 800-688-1984.
Malpractice Insurance Policy Limits for Healthcare Professionals

When reviewing policy limits for your Malpractice Insurance, there are two numbers to keep in mind: the occurrence limit and the aggregate limit. Here’s what you need to know:

- **Occurrence limit.** This is the maximum amount your policy will pay for any one claim.
- **Aggregate limit.** This is the most that will be paid in any policy term for all claims.

For example, a policy with limits of $1 million / $3 million will provide a maximum of $1 million per claim and $3 million for all claims during a policy term.

Some states mandate that medical professionals carry a specified minimum amount of Malpractice Insurance, but we’ll delve deeper into that subject later. For reference, most small healthcare practitioners take limits of $1 million / $3 million. If you need help deciding on limits that are appropriate for your private practice, consult an insureon agent.

Medical Malpractice Statutes of Limitations

Each state has its own statute of limitations concerning how long someone can wait to file a medical malpractice claim. Some states follow the “discovery rule” for medical malpractice statutes of limitations, which says the limitation period does not begin to run until the injury is discovered, or when the patient (or their physician) should have discovered it.
Keeping that in mind, here are a few examples of state statutes of limitations:

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<thead>
<tr>
<th>STATE</th>
<th>STATUTE OF LIMITATIONS</th>
<th>DISCOVERY RULE?</th>
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<tr>
<td>California</td>
<td>3 years from date of injury OR 1 year from date of discovery (whichever is first)</td>
<td>YES</td>
</tr>
<tr>
<td>New York</td>
<td>3 years</td>
<td>SOMETIMES</td>
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<tr>
<td>Illinois</td>
<td>2 years from when patient knew or reasonably should have known about injury</td>
<td>YES</td>
</tr>
<tr>
<td>Texas</td>
<td>2 years</td>
<td>YES, up to 10 years</td>
</tr>
<tr>
<td>Florida</td>
<td>2 years from when injury was discovered or should have been discovered</td>
<td>YES</td>
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So say you operate an occupational therapy practice in Florida and a patient suffers an injury because of your treatment. They have two years to file a medical malpractice lawsuit against you. Because these statutes are years long, it’s imperative that you keep the same Malpractice policy in force to ensure your practice is protected at all times.

Check out Edgar Snyder & Associates’ page Statute of Limitations by State for more information about medical malpractice timeframes.

**State Laws and Malpractice Insurance**

While we’re on the topic of state laws, did you know that at least seven states require physicians to obtain minimum levels of Malpractice Insurance? It’s true! Colorado, Connecticut, Kansas, Massachusetts, New Jersey, Rhode Island, and Wisconsin all require physicians to carry coverage ranging from $100,000 to $1 million per occurrence and $300,000 to $3 million in aggregate per year.
Plus, Indiana, Louisiana, Nebraska, New Mexico, New York, Pennsylvania, and Wyoming require physicians to carry minimum levels of Malpractice Insurance to qualify for state liability reforms (such as caps on damages or patient compensation funds).

Though many states do not require physicians to obtain a specific amount of Malpractice Insurance, you may be required to carry a certain amount of protection in order to receive hospital staff privileges, participate in health insurance plans, or adhere to client contracts.

To learn more about state laws governing Malpractice coverage, check out The American Medical Association’s state-by-state guide for mandatory insurance requirements.

Cyber Liability Insurance for Allied Health Professionals

According to a study commissioned by Hartford Steam Boiler and the Ponemon Institute, 55 percent of small businesses have experienced at least one data breach. When your medical practice stores electronic protected health information (ePHI), Social Security numbers, and credit information on its computers, these breaches are more than a small inconvenience – they could cost your practice thousands in HIPAA / HITECH fines, investigation costs, notification expenses, and credit monitoring services.

Cyber Liability Insurance (also known as Cyber Risk Insurance or Data Breach Insurance) is designed for health practitioners operating in the digital age. If your data is stolen or leaked by a hacker or a virus, this coverage gives your business the funds it needs to combat the damages.

Your Cyber Risk Insurance may cover the cost of...

- Notifying affected parties about the breach. The new HITECH Act says HIPAA-covered entities (such as medical practitioners and health insurance providers) must notify individuals when unsecured protected health information has been breached. You also have to notify regulatory authorities of the breach. This step alone can cost thousands of dollars
and countless hours. Many states require notification be sent through the mail. You may have to set up a call center if enough individuals are affected. Sometimes, medical practices create a website solely for the purposes of helping patients find resources to handle potential consequences of the incident.

- **Buying credit and identity-monitoring services.** Your Cyber Liability policy may pay for recovery services so affected individuals can avoid healthcare fraud and identity theft. The price of a full year of credit or identity monitoring for each data breach victim can quickly become a burden for your small practice, which is why Cyber Liability Insurance is so valuable. Some policies only offer credit monitoring, while others cover both credit and identity services. Be sure to read your policy carefully to ensure you’re receiving the protection you need.

- **Repairing your reputation.** After a data breach and the subsequent notifications, word gets out quickly that your practice dropped the ball on keeping private information safe. Fortunately, your coverage can provide the funds to launch a PR campaign to help rebuild your practice’s credibility after a breach tarnishes your public image.

- **Financial negotiations.** If a cyber extortionist holds your data hostage or threatens an attack, your Data Breach coverage can cover the “ransom” amounts.

- **Regulatory fines and penalties.** Some policies include coverage for fines to pay the U.S. Department of Health and Human Services (HHS) to settle violations of HIPAA’s Privacy and Security Rules.

The **HITECH Act** strengthens the civil and criminal penalties outlined under HIPAA. Before HITECH, HHS could not impose a penalty greater than $100 per violation or $25,000 for all identical violations in a year. The new act increases civil penalty minimums to a $100-to-$50,000 range, depending on severity, and increases the maximum penalty to $1.5 million per year. That means your private medical practice can be fined at the very least $100 for each violation if it fails to protect digital health information.
Data Breach Examples: It Could Happen to You

The cost of HIPAA and HITECH violations is enough to devastate a small business. Take a look at a few of the staggering fines HHS has doled out in the past few years:

- In 2009, Blue Cross Blue Shield of Tennessee was fined $1.5 million by the Department of Health and Human Services for security violations related to a data breach.
- After patients complained about unauthorized individuals viewing their records, the University of California at Los Angeles Health System received a fine of $865,500 in 2011.
- In 2011, Cignet Health in Maryland received a whopping civil penalty of $4.3 million for violating a HIPAA rule. The company denied 41 patients their medical records, which accounted for $1.3 million of the fine. The other $3 million came from Cignet Health’s failure to cooperate with the HHS investigation.
- In 2013, WellPoint, Inc. (an Indiana-based company) agreed to pay a $1.7 million fine to the HHS over a breach of its unsecured ePHI.

Though it may seem as though large hospitals make a better target for cyber thefts and security breaches, it’s small businesses that are most often the victims. According to a study by Verizon Communications Inc., about 72 percent of the 855 data breaches worldwide in 2011 were at companies with 100 or fewer employees.

The Office of Civil Rights notes that 69 percent of all HIPAA violations of 500 or more items are a result of human error, such as losing a thumb drive with notes about your patients’ therapy sessions. Even if you take every precaution to guard your patients’ electronic health records, there’s always a chance you could make a costly mistake.

That’s why it’s better to err on the side of caution and have a plan in place to help get you out of a serious financial jam and ensure you do everything in your power to protect your patients’ health information. After all, according to HIPAA regulations, protecting patient data is your responsibility.
Chapter 3:
How to Fill the Gaps Left by Standard Insurance Policies
How to Fill the Gaps Left by Standard Insurance Policies

No insurance policy covers every risk. For instance, when we looked at Property Insurance, we noted the breadth of coverage a standard plan includes: compensation for loss or damage caused by windstorms, fires, thefts, and power outages. However, most Property policies exclude coverage for flood, hurricane, and earthquake damage.

But that doesn’t mean small medical practices in California are thrown to the wolves when it comes to earthquake damage protection. They can add an event-specific endorsement (also called a “rider”) to their primary Property policy.

Endorsements or riders help you tailor your plan to your specific insurance needs. That way, you don’t pay extra for bells and whistles you don’t need. You can simply pick and choose the fillers that help you manage the risks most threatening to your business.

Read on to learn about the types of riders available to self-employed healthcare practitioners.

Extended Reporting Period (ERP) Endorsement / Tail Coverage

Extended Reporting Period coverage (aka “tail coverage”) can help you avoid gaps in your Malpractice policy. If you must cancel or have not renewed your policy, this endorsement can make sure that you still receive the benefits of your Malpractice Insurance for claims filed during the interim, so long as those claims occurred while your policy was in force.

Prior Acts Endorsement / Nose Coverage

Prior act coverage (sometimes called “nose coverage”) is another supplement for your Malpractice Insurance. Most medical professionals purchase this endorsement from their new insurance carriers when they switch providers. Prior acts coverage covers
incidents that occurred under a previous claims-made policy, but have yet to be reported. If such a claim arises during this transition time, you report it to your new carrier and your prior acts policy can cover the lawsuit.

Why Starting and Stopping Malpractice Insurance Never Pays Off

For healthcare business owners (and especially sole proprietors), money is tight. You have a business to maintain, patients to treat, and an office to run. If you’re looking for ways to save money, it can be tempting to only purchase a policy when you “need” it (such as when a new contract or lease requires it) and drop it when you don’t.

But if you “don’t have enough money” for insurance, you definitely don’t have enough money to combat a lawsuit – even if the charges against you are ultimately dropped. Simply hiring a lawyer can cost thousands of dollars. Plus, when you’re sued, there’s a very real risk that you’ll be liable for wrongdoing. For malpractice suits, you could face a settlement or judgment with a million-dollar price tag.

We’ve already examined how Malpractice Insurance works on a claims-made basis, which means the same policy must be in place when a covered incident occurs and when the claim for the incident is filed. If you don’t have the appropriate nose or tail coverages in place to bridge the transition between Professional Liability policies, you could be left handling the high cost of a malpractice suit on your own.
Chapter 4:

How to Comply with HIPAA Regulations and the HITECH Act
How to Comply with HIPAA Regulations and the HITECH Act

As a healthcare practitioner, you’re probably already familiar with HIPAA, the Health Insurance Portability and Accountability Act, which took effect in 1996. The Department of Health and Human Services (HHS) enforces HIPAA. Essentially, the HHS oversees the documentation and dissemination of all patients’ healthcare information by medical providers, insurance companies, and billing companies or clearinghouses.

An example of a HIPAA violation would be discussing HIV testing procedures with a patient in the waiting room. This is a violation of your patient’s privacy because other people in the waiting room would have access to the patient’s protected health information.

To maintain HIPAA compliance, you’re required to develop and implement policies and procedures for administrative and physical safeguards related to the communication of PHI. This includes training staff in proper patient communication and adherence to other HIPAA guidelines.

As the guardian of your patients’ protected health information (PHI), you could be heavily fined for HIPAA violations. The following is a breakdown of each type of violation and the price tag it carries:

- Unknowing violation ($100 - $50,000 for each violation).
- Reasonable cause and not willful neglect ($1,000 - $50,000 for each violation).
- Willful neglect but corrected within time ($10,000 - $50,000 for each violation).
- Willful neglect without correction ($50,000 for each violation).

Each of these violations can result in up to $1.5 million in fines if you make the same mistake within a calendar year. However, in applying these amounts, the HHS usually doesn’t impose the maximum penalty. Instead, the penalty amount is based on the nature and extent of the violation, the nature and extent of the resulting harm, and other factors, such as whether or not you comply with the investigation.
HIPAA Privacy & Security Rule Complaint Process

**COMPLAINT**

**INTAKE & REVIEW**

**POSSIBLE CRIMINAL VIOLATION**

**DOJ**

**ACCEPTED BY DOJ**

**INVESTIGATION**

**POSSIBLE PRIVACY OR SECURITY RULE VIOLATION**

**RESOLUTION**

- The violation did not occur after April 14, 2013
- Entity is not covered by the Privacy Rule
- Complaint was not filed within 180 days and an extension was not granted
- The incident described in the complaint does not violate the Privacy Rule

HITECH Act: What Allied Health Professionals Need to Know

The Health Information Technology for Economic and Clinical Health (HITECH) Act supports the enforcement of HIPAA requirements by raising the fines health organizations can face for violating HIPAA Privacy and Security Rules. It’s the HITECH Act you can thank for the new maximum penalty of $1.5 million for repeat or uncorrected violations. Before the act, the HHS could not impose a penalty greater than $25,000 for all identical violations. HHS is now required to conduct periodic audits of covered entities and their business associates.

But the HITECH Act does more than raise the stakes for offenders – it also makes provisions for the use, storage, and transmission of electronic protected health information (ePHI). See below for a few of the meaningful ways HITECH has changed how medical professionals handle digital health information.

• **Notification of breach.** According to the HITECH Act, you must provide notification of data breaches that result in unauthorized uses and disclosures of “unsecured PHI.” In other words, you must notify affected parties about breaches. If 500 or more patients are affected, then HHS must be notified as well. In turn, the HHS will post the breach under your practice’s name on its website, and sometimes, release a report to local media.

• **Electronic health record access.** HITECH stipulates that HIPAA-covered entities must implement and demonstrate “meaningful use” of e-records. In a nutshell, that means you must have an electronic health record system, and you must ensure your patients can access their protected health information digitally. Your patients can also designate that a third party be the recipient of the ePHI. The Act provides that only a fee equal to the labor cost can be charged for meeting a request for ePHI.

• **Business associate agreements.** Under the HITECH Act, business associates of healthcare practices and providers are now on the compliance hook. This means that software vendors providing electronic health record systems can
be considered business associates and subject to privacy penalties for violations. When considering IT contractors or consultants, be sure to verify that they're aware of and able to comply with HIPAA and HITECH guidelines.

HIPAA and HITECH Compliance Tips for Private Healthcare Practitioners

The following are the most common causes of HIPAA violations and some ideas about how to avoid these pitfalls as you treat patients:

- **Human error.** As we mentioned before, the Office of Civil Rights (OCR) cites human error as the leading cause of HIPAA violations (69 percent). For example, if you leave an unencrypted backup thumb drive with PHI in your car and that drive is stolen, you would be violating HIPAA regulations. And even certain social media comments can constitute a HIPAA violation. The solution? Train your team on HIPAA rules and enforce strict protocol for handling PHI.

- **Unencrypted data.** The vast majority of data breaches are caused by thefts of unencrypted data. Encryption is the process of converting data into a secret code to prevent unauthorized access. When dealing with encrypted files, be sure to choose a strong password to ensure the code isn’t easily broken. You’ll also want to change passwords regularly.

- **Data stored on devices.** Theft of physical records (on a laptop, device, or storage media) accounts for 42 percent of all data breaches, according to Hartford Steam Boiler. A solution for protecting PHI stored on portable devices is to encrypt or password-protect the records. You’ll also want to back up records – you don’t want to risk losing the only copy of your patients’ PHI if your computers or media devices are stolen.

- **Business associates.** Business associates are a major potential source of exposure for wellness professionals, as they are often charged with carrying your PHI on behalf of your practice. That means you must be selective with your vendors and associates or risk fines for noncompliance. You’ll want them to fully understand HIPAA compliance; have dedicated firewall / VPN and antivirus systems in place; and use backup systems and documented, formal policies and procedures. Further, it’s wise to choose partners who have adequate Professional Liability or Cyber Liability
Insurance in place to ensure that they can cover the costs of any breaches that occur without being forced to shut down operations.

- **Lapses in notification.** Many HIPAA violations result in serious fines when a business owner neglects to inform affected individuals. HHS requires that individual notifications be provided without unreasonable delay: no later than 60 days following the discovery of a breach. Your notification must include a description of the breach; a description of the types of information that were involved in the breach; the steps affected individuals should take to protect themselves from potential harm; and a brief description of what you’re doing to investigate the breach, mitigate the harm, and prevent further breaches. (Read more about the HHS’s breach notification requirements from the HHS website.)
Chapter 5:

How to Find Business Insurance for Your Medical or Healthcare Practice
How to Find Business Insurance for Your Medical or Healthcare Practice

By now, you know where your risks lie, which policies can protect your small practice, and which federal laws to consider when running your office.

Finally, it's time to look at your options for finding insurance coverage. You have two distinct choices:

• Go the solo route and find the policies you need on your own.
• Team up with an insurance agent and let them work their magic.

Here's what your insurance-buying process will entail if you go it alone:

1. **Assess your risks.** Leave no stone unturned and make sure you account for every risk exposure you may face while running your practice. This is the foundation from which you’ll build your plan.

2. **Check the insurance companies’ ratings.** If you’re shopping online, this step is especially important. Look for a carrier with a rating of “A” or better. These carriers are nationally renowned for their industry-tailored products, reliable terms, and quick payouts.

3. **Request rates from multiple carriers.** After identifying carriers you can trust with your money and the future of your business, request quotes from multiple carriers. This allows you to comparison shop on price and coverage, both of which vary from one carrier to another.

4. **Compare the coverage offerings.** The rate isn’t the only important feature of your insurance policies. Read the fine print to ensure you aren’t missing out on essential protection. Every policy comes with exclusions, so be sure you choose the plan that doesn’t leave holes in your risk management plan.

5. **Consider the deductible.** All business insurance policies come with a deductible, which is the amount you’re responsible for paying before your benefits kick in. A higher deductible is usually paired with lower premiums, and a lower deductible tends to accompany higher premiums. Consider how frequently a covered loss might occur. Then ask yourself how much of that loss you can carry on your own. As a rule, your deductible should be no more than you can spare without jeopardizing your own finances.
As you can see, this process is arduous. And as a healthcare practitioner running a business, you probably don’t have time for much extra work.

That’s why you may fare better when you work with an insurance agent. With a licensed agent, you can...

- **Fill out a single application and receive multiple quotes.** Save yourself time and headaches by answering questions about your practice only once. Insureon’s agents use data from your application to find policies that fit your needs, and we send you quotes for those policies from multiple top-rated carriers. We’re able to do that because our agents have experience working with insurance companies to find coverage for small healthcare practices and know which ones have top ratings.

- **Get your questions answered by a person.** If you’ve never bought business insurance before, chances are you’ll have questions. When you work with insureon, you’ll get a real live human to answer those questions – not some infuriating phone tree. Plus, our agents are trained by industry, so you’ll work with a licensed agent who already understands the risks and insurance needs specific to small healthcare businesses. And best of all, your insurance agent will work with you throughout the life of your policy – not just when it’s time to renew.

- **Avoid wading through insurance industry jargon.** The world of business insurance is overrun with jargon. Even the savviest business owners may be left scratching their heads after reading through a policy’s fine print. Our agents know the code and will help you understand your policy. We give you a clear and honest understanding of the risks you face and what your policy entails in plain English.

If you’re ready to protect your business and let insureon do the legwork for you, simply complete an insurance application today to receive competitive quotes in your inbox in less than 24 hours!
Chapter 6:

How to Keep Your Insurance Rates Low
How to Keep Your Insurance Rates Low

Carrying adequate (and appropriate) business insurance is one of the foremost ways to protect your medical practice, but it’s not the only way. Some of the following tips can help lower your premium rates, and all of these pointers can strengthen your overall business protection plan and keep your healthcare business thriving:

• ** Maintain patient confidentiality.** As we discussed in the section on HIPAA compliance, guarding your patients’ protected health information is your responsibility. Even unintentional breaches can be penalized, and repeat offenses can cost thousands of dollars in fines. To minimize the risk of compromising your patient’s privacy, create protocols for handling protected health information. If you eventually hire staff members, they’ll also need to undergo HIPAA-specific confidentiality training.

• **Lower data breach risk.** You can potentially reduce your Cyber Liability Insurance premiums by reinforcing your security practices (which also reduces your risk of data breaches!). The easiest way to begin protecting digital information is with strong passwords. According to Verizon’s 2012 Data Breach Investigations Report, 79 percent of breach victims were targets of opportunity, and 96 percent of the attacks were not difficult for hackers. That means vulnerabilities were exploited, and most often, weak passwords were the culprit. Choosing complex passwords and changing them often can reduce your risk exposure. You’ll also want to conduct regular risk assessments to reveal hardware, software, and site exposures. Plus, implementing firewalls, virtual private networks (VPNs), and anti-virus software can help prevent an attack from occurring.

• **Encourage your patients to speak up.** Earlier, we looked at the common risks health professionals face, and one of those risks involves informed consent. If your patient doesn’t understand what they’re agreeing to when you discuss their treatment options, they can’t make an informed decision. Should you proceed to treat them without their full consent (and a signed informed consent document), they could take you to court over the issue. As a result, you could face hefty malpractice penalties – or even criminal assault charges. There’s no telling what a patient may or may not do in response to a medical misstep, which is why communication lines must be open at all times. Answer their questions, get patient feedback, encourage them to talk about their medical history, and let them know that their involvement can influence the success of
their treatment. Chances are, the more involved in the process your patient is and the more they understand the pros, cons, and costs of their treatment, the less inclined they’ll be to take legal action against your practice if things don’t go as you’d hoped.

• **Comply with the Affordable Care Act.** You don’t receive healthcare benefits from an employer because you work for yourself. However, as of January 1, 2014, all Americans are legally required to carry health coverage. Thankfully, you can no longer be barred from coverage based on preexisting conditions (such as pregnancy or disability). If you don’t have coverage by January 1, 2014, you’ll be charged a fee of 1% of your yearly income or $95 per person for the year (whichever is higher). The fee increases every year that you don’t have coverage. Even if you’re covered by your Workers’ Compensation policy, it doesn’t count as healthcare coverage and you will still be charged a noncompliance fee.

• **Pay your quarterly taxes.** If you’re an independent contractor or sole proprietor, you also don’t have an employer to withhold your federal taxes (i.e., your Social Security and Medicare taxes). That means you are subject to paying quarterly taxes. (Note: most states also require the self-employed to pay quarterly income taxes.) If you fail to pay your quarterly taxes at the designated times throughout the year (April, June, September, and January), you will owe back taxes, plus penalties and interest (if you owe more than $1,000 at the time you file your annual taxes). To submit your payments to the IRS, you must file Form 1040-ES vouchers, or use the Electronic Federal Tax Payment System. The IRS prefers that you figure the total estimated tax for the entire year, divide the amount by four, and send in equal payments according to the schedule. The Form 1040-ES package comes with a worksheet that will help you work up the amount you owe.
Chapter 7:

When to Update Your Business Insurance Policies
When to Update Your Business Insurance Policies

Welcome to the last leg of your business protection journey. By now, you should feel confident about the steps you need to take to grow your business and protect your assets. So we’d like to leave you with a few notes about the future of your medical practice.

Here are common scenarios that should trigger an update to your business insurance plan:

- **Business growth.** As you accept more patients, your risk exposures increase. That means you may need to reevaluate your Malpractice Insurance limits or your General Liability Insurance limits.

- **New offices.** When you move into a new office, you’ll have to update your Property Insurance. The good news is that if you move into a newer building, your premiums might actually go down, as newer buildings tend to have safety features that lower your risk exposure.

- **New services.** If you offer new services, you’ll need to expand your Malpractice Insurance. That way, if you make a mistake while treating or working with a patient, your policy can cover any resulting malpractice lawsuit.

- **New employees.** If you decide to bring on extra help, be aware that you may be legally required to carry Workers’ Compensation Insurance – even if you only have one employee! The laws governing occupational injury coverage vary from state to state, but as a rule, any part-time or full-time employee should be covered by your plan. (To learn more about each state’s laws governing the coverage, check out our Workers’ Compensation Laws by State guide.) The good news is that you can cover yourself with the policy, too, so you will have coverage for work-related injuries that you incur (such as a needlestick if you are a phlebotomist). Additionally, you’ll also want to extend your Malpractice Insurance policy to cover key employees who offer services on behalf of your practice. That way, if your office is sued for a mistake your staff member made, you’ll be covered for the lawsuit.

If you have any questions about your business insurance plan or coverage options, please feel free to talk to an insureon agent. We’re happy to address your concerns and help you find the policies that fit the unique needs of your medical practice.