

## Insuring the Future

Professional liability insurance is an effective way to safeguard a physical therapist's personal and professional future

By Cassandra Perez, MA

The profession of physical therapy demands personal interaction daily, and physical therapy and rehabilitation professionals dedicate their career to helping patients achieve their best quality of life. However, as health care professionals, physical therapists are in a vulnerable position and are open to the possibility of charges of wrongdoing. According to ProLiability, a provider of medical malpractice insurance, some estimates find that 75% to 99% of medical professionals will be named in a liability lawsuit at some time during the course of their careers.

As such, professional liability insurance is essential for physical therapists as this type of insurance covers claims for medical mistakes, misdiagnosis, and any other type of situation where a patient has suffered an injury. The American Physical Therapy Association (APTA) notes that professional liability insurance is fundamentally designed to protect one's assets and cover a therapist's expenses in the event a suit for malpractice is brought against a physical therapy professional. This insurance coverage insures a person or entity against claims made by a third party alleging negligence in the rendering of professional services arising out of the physical therapist's provision of care.

In the event of a lawsuit, the primary benefit of professional liability insurance is the protection it provides a therapist's professional and financial future. This type of policy can help cover legal expenses to defend against a malpractice lawsuit, largely because attorney's fees and legal costs can be staggering. This insurance coverage also pays any damages awarded up to the limits of the policy.

Overall, this coverage can help relieve the health care professional from the financial burden of defending themselves in a



malpractice lawsuit and aid in the prevention of extensive financial losses. Laurie Kendall-Ellis, PT, CAE, executive director of the Private Practice Section of APTA, explains, "Liability insurance will provide the physical therapist with what they need to protect themselves from any legal action not only professionally but on a personal level."

### TYPES OF PROFESSIONAL LIABILITY INSURANCE

There are two principal types of professional liability insurance coverage. The first type is claims made coverage, which protects a physical therapy professional against an incident that arises from treatment provided after the policy's retroactive date and is reported while the policy is in force. As long as a claims made policy is continuously renewed, a therapist may report claims for incidents that occurred in previous policy years, or back to the beginning of the claims made coverage.

According to the American Council of Healthcare Professionals (ACHP), the benefit of this form of coverage is that the only insurance carrier with which the therapist must be concerned is the current carrier. Essentially,

all claims brought are handled by the existing claims made policy without regard to when the incident occurred, pursuant to the retroactive date. An added benefit, according to the ACHP, is that premiums typically cost less in the initial years of a claims made policy than an occurrence policy offering similar coverage.

An occurrence policy, which is the other primary type of coverage, protects a therapist when an incident occurs while the policy is in force, irrespective of when the claim is reported. The ACHP notes the benefit of this policy is that the rehabilitation professional is protected both in the present and future for any incidents that occurred while the person is a policyholder. Fundamentally, a claim can be reported during the current policy year or after the policy has ended. Also, according to the ACHP, the limits of liability in effect when the incident that prompted the claim occurred are the limits that apply toward judgment costs or a settlement.

### SELF-OWNED VERSUS EMPLOYER COVERAGE

For physical therapy professionals, it is imperative to understand and recognize the

importance of having self-owned coverage in addition to any coverage provided by an employer. For physical therapists employed by a health care service provider, the professional liability coverage held by the employer will typically provide coverage for incidents that arise while acting within the scope of duties performed on behalf of the employer. However, an employer's policy may have unique limitations that may not be advantageous to in the event of a lawsuit or complaint.

A therapist should not assume that an employer's coverage will provide sufficient protection in the event of lawsuit, specifically if the suit develops as a result of volunteer assignment, another part-time job or contract work performed after hours, or even good samaritan assistance. In an article for *Ezine* by Michael Maitland, client manager for Commercial Insurance Lines at Ohio-based insurance agency The Hoffman Group, the author asserts that an individual policy will customarily protect a therapist every day, even while providing therapeutic services "off-duty."

Robin K. Erker, PT, owner of Grayslake Rehabilitation in Illinois, explains that the physical therapists on her staff are only covered outside of the office if it is a Grayslake-sponsored or endorsed event. Erker states that if it is an activity or service administered on their own time that is not related to their work with Grayslake, then the coverage provided by the employer will not cover them during an adverse event.

Kendall-Ellis notes that many times, the insurance coverage provided by an employer may only cover up to a certain level. She adds that in the event a practicing physical therapist is named in a lawsuit, "Having that additional coverage would . . . potentially protect the individual physical therapist not only for the lawsuit but any loss of pay due to it, any other costs for defending themselves," which may not be covered by an employer's malpractice rider. Kendall-Ellis suggests that to reduce personal and professional risk, it is essential for a therapist to determine and understand the limits of an employer's coverage, and this will be a significant factor in deciding whether to take out additional coverage.

Maitland also notes several other factors

to consider when deciding whether to own an individual professional liability insurance policy. In the event a health care provider has this type of coverage for employees, liability limits may be shared among other defendants. Maitland notes that shared liability decreases a therapist's protection and increases personal financial liability. Another issue to consider is whether an employer's policy provides license protection, as one of the most serious risks in a lawsuit is the possibility of license suspension or withdrawal, which will not allow a therapist to continue to work.

Overall, it is the goal of any physical therapist to provide exceptional patient care, but in a society that can be litigious, it is imperative for any rehabilitation professional to protect his or her personal assets and future, and an individual professional liability insurance policy can be an effective means of doing so.

## **DETERMINING THE BEST COVERAGE**

As a health care professional, professional liability insurance is an integral part of daily business and administering therapeutic services. As such, it is of the utmost importance to choose the best coverage with the most suitable policy features to meet the unique professional needs of the physical therapist in addition to selecting the appropriate insurance company. As the decision-maker, you should aim to be as informed as possible in order to make an educated choice and selection.

With the abundance of companies offering professional liability insurance for health care professionals, selecting the right company can be a difficult decision, but conducting research on insurers and policies can help a therapist make an informed choice.

## **COMPANY COMPARISON**

The first step in choosing an insurance policy and company is to identify the insurance carriers who specialize in coverage for physical therapy professionals so they understand the specific needs of the therapist and can create a policy that reflects these needs. An excellent place to begin is to ask colleagues for suggestions or check with professional associations, such as the APTA, for endorsements or recom-

mendations. Erker points out that an official endorsement was an important factor to her when selecting professional liability insurance coverage for her business.

In addition, it may be helpful to conduct online research to determine which companies are the most reputable and reliable in terms of stability and payment of claims. Checking for complaints against any of the companies being considered may also help in selecting a reliable insurer. For example, one can search for complaints online at the website of the Better Business Bureau (BBB) or through the state's insurance regulatory or licensing board or commission.

Kendall-Ellis states that in the event of a malpractice lawsuit, it is crucial to have an insurance carrier "who is there immediately to guide you through how you should or should not respond, and provide you with the best legal defense if that's what ends up happening." Overall, it is of the utmost importance to select a reputable, reliable company as an insurance provider for a therapist to protect his or her license, livelihood, and personal assets, according to Kendall-Ellis.

## **POLICY FEATURES**

The next step for a therapist will be to obtain quotes for the insurance coverage and compare policies. However, the policy comparison will involve more than just plan prices. One important component of professional liability insurance is coverage limits, which can have a direct bearing on policy premium rates. According to the ACHP, the coverage limits in terms of minimums and maximums frequently vary by state and are normally calculated per occurrence with an annual aggregate. The ACHP notes that the higher the coverage limits, the higher a premium is likely to be.

With professional liability insurance, the insured may be able to add an additional \$1,000,000 to \$2,000,000 of coverage for a minimal amount to the premium. Therefore, the APTO Insurance Center suggests considering the maximum limits offered by a policy rather than just selecting the most inexpensive premium, dependent, of course, on the professional's needs.

## Product Resources

The following companies offer more information about professional liability insurance.

**Healthcare Providers Service Organization (HPSO)**  
www.hpso.com

**Marsh US Consumer**  
www.proliability.com

Kendall-Ellis says that the Private Practice Section recommends a \$2 million benefit for each covered incident with up to a \$4 million maximum. Erker suggests to physical therapists on her staff \$1 million per incident. Essentially, Kendall-Ellis says that while there is no ideal limit, therapists must decide what is best for themselves and their professional needs.

In addition to coverage limits, there are several other factors to consider when selecting a policy. The costs of defense in a malpractice lawsuit can be particularly costly, with legal fees and attorney's fees adding up quickly throughout the course of a case and amounting to thousands of dollars. The costs

for a settlement or judgment may also be substantial, and a policy should include coverage for this as well. Another feature for a professional liability insurance policy to include is lost work time, which is any payments awarded related to wages during a case.

With the number of policy features to consider, Kendall-Ellis suggests that an ideal policy include the following: license protection to allow a therapist to continue to earn a living; coverage for personal assets, if at risk; appropriate and adequate coverage limits; and coverage for legal fees. It is important for a rehabilitation professional to understand the many features available for a professional liability insurance policy and to select the options that are right for them, which is a critical part of the insurance-buying process, in order to protect their professional and personal assets.

### INSURING THE FUTURE

As health care professionals, physical therapists dedicate their careers to helping patients restore wellness and the ability to live their best lives. However, in the delivery of quality care, a therapist is at risk for legal

action in the event a client claims he or she endured harm as a result of a negligent act or error on the part of the therapist. As such, professional liability insurance is one of the most effective ways for therapists to safeguard their professional and personal futures, and relieve the financial burden a lawsuit or complaint may bring. Therapists work diligently to protect the well-being of their patients. Conversely, they should consider a professional liability insurance policy to help preserve their own livelihood, welfare, and future. **PTP**

*Cassandra Perez, MA, is associate editor for Physical Therapy Products. For more information, contact [PTPEditor@allied360.com](mailto:PTPEditor@allied360.com).*

### INTERACTIVE EDITION EXCLUSIVE

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To view the interactive edition of *PTP*, visit [www.PTPProductsOnline.com](http://www.PTPProductsOnline.com).

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