What Is the Purpose of Medical Malpractice Insurance?

- Malpractice Insurance covers costs related to allegations, claims, suits alleging deviation from standard of care resulting in harm to patient.
- Pays for attorney representation, investigation and other costs (experts) associated with your defense.
- Pays for judgment, settlement, award up to limit of liability.
- Defense Costs – Inside or Outside the Limit?
- Legally required in most states.
Common Malpractice Policy Limits

$1\text{Million}\,$/$3\text{Million}$

$2\text{Million}\,$/$6\text{Million}$

$5\text{Million}\,$/$10\text{Million}$

- 1st Amount: Maximum Amount per Claim
- 2nd Amount: Maximum Amount for All Claims During Policy Year (Aggregate)
Claims Made vs. Occurrence Coverage

• All policies have a policy period - starting date and ending date. What happens after the policy ends?

• The key difference – Occurrence vs. Claims Made – Policy in effect THEN (incident) versus Policy in effect NOW (claim)

• What triggers a claim? Incident, Report or Suit?
Which Policy Responds?

Incident Occurred 7/4/12

Claim filed 10/31/14

Occurrence Form

- 2010
- 2011
- **2012**
- 2013
- 2014

Claims Made Form

- 2010
- 2011
- **2012**
- 2013
- **2014**
Claims Made Coverage

- Most common type of coverage in the US
- Premium is tiered, generally over first 5 years.
- Pays claims if an incident occurs after the retroactive date and claim is made during the policy period.
- If incident occurs during the policy period & claim is made after policy ends:
  
  No Coverage...Unless You Purchased a “Tail”

- Extended Reporting Period Endorsement, aka “Tail,” continues coverage after the policy ends.
Modified Claims Made

- Tail is “built in” - no need to purchase extended reporting endorsement when policy cancelled

- Level Premium beginning Year 1

- Most common with the institutional/academic malpractice programs but also available with traditional indemnity companies
Occurrence Coverage

- Less common except in the Northeast
- Occurrence costs more, as it builds in the Tail cost
- Occurrence responds via the policy that was in effect when the incident occurred
- With Occurrence, no need to buy a Tail when the policy ends – policy will continue to respond to incidents that transpired under its coverage period.
Costs: Claims Made vs. Occurrence

Internal Medicine: $1M/3M Base Premiums

- Year 1: $0
- Year 2: $2,000
- Year 3: $4,000
- Year 4: $6,000
- Year 5: $8,000
- Year 6: $10,000
- Year 7: $12,000
- Year 8: $14,000

Graph showing:
- Red diamond line: Occurrence
- Purple square line: Traditional Claims Made
Possible Policy Enhancements:

- Defense of Sexual Misconduct allegations
- Consent to Settle Clause
- Defense of Professional Licensing Issues
- Locum Tenens provisions
- Billing Fraud & Abuse
- Data Breach - Personal or Healthcare-Related Information
- Civil Rights Violations
- Vicarious Liability
Applying for a New Position? 
Ask These Malpractice Questions:

- Who is paying for my medical malpractice insurance?
- Will there be a malpractice “Tail” needed when I leave?
- If so, who pays for the Tail?
- I am coming from a claims made policy -Will this new company “pick up my retro date”?
Questions?