Emerging changes in the practice of medicine present new risk factors that go beyond simply administering healthcare. The Patient Protection and Affordable Care Act, and the resulting new rules in development, will place more of the risk burden on the medical practice itself. This burden impacts all of the elements of that practice, ranging from medical records to employment practices. Additionally, recovery audits, data breach notification regulations and modifications to the HIPAA privacy rule are forcing rapid workflow changes within healthcare organizations. Consequently, these regulatory requirements mandate a new level of awareness and planning to maintain both compliance and productivity. All of these complicating factors are resulting in increased liability risks for not only physicians, but their practices as well.

Surely, there isn’t a physician in America who practices the craft of healing without professional liability insurance coverage. However, other types of coverages can be equally important to the financial health of a medical practice and yet are often overlooked or purchased without careful review.

In particular, all physicians should carefully investigate the benefits of these three types of insurance:

- Employment Practices Liability Insurance (EPLI)
- Data and Cyber Data Breach Insurance
- Medical Practice Administration Insurance

**Employment Practices Liability Insurance**

Employment Practices Liability Insurance (EPLI) provides protection for an employer against claims made by employees, former employees or potential employees. It covers discrimination, invasion of privacy, false imprisonment, breach of contract, sexual harassment, emotional distress and wage and hour law violations. The cost for EPLI tends to be low, and it will often pay for itself the first time a physician has need for an employment attorney in a controversial situation.

Physician practices need EPLI in the same way any employer does, but perhaps even more so. Typically, a medical practice employs a variety of staff and office administrators at various skill levels that cannot be adequately evaluated until after the job applicant is hired. If the new employee does not then meet the required standards of care established by the practice, firing that new hire can open the practice to a lawsuit. More than any other aspect of the employment relationship, the discharge of an employee has the potential to result in litigation.
Data and Cyber Data Breach

Data breach and cyber data breach are terms describing the loss, theft or accidental release of personally identifiable information. Common occurrences such as a lost laptop, improperly shredded paper files, a missing and unencrypted backup drive or a hacking incident, can easily lead to such breaches. Even casual conversations can leak personal data—and lead to a violation of the Health Insurance Portability and Accountability Act (HIPAA). For example, perhaps you or one of your staff discuss a patient on a personal level. Or maybe that patient owes your practice money, which could lead to a verbal discussion about the person’s character. In cases like this, when a patient’s personal information is compromised, that person’s privacy and your practice may be at risk.

Data and cyber data breach insurance can help you bounce back by providing a range of coverages that can include the following: legal liability coverage for damage to third parties; coverage for loss caused by administrative or operational error; breach of privacy coverages for damages resulting from alleged violations of HIPAA; state and federal privacy protections laws and regulations; customer notification expense reimbursement and credit monitoring; public relations expense coverage; non-physical business interruption expense coverage (arising from damage to the insured’s computer system) and cyber extortion reimbursement coverage.

Medical Practice Administration Insurance

Medical practice administration insurance is another type of insurance coverage that physicians should consider. As physicians must comply with increasingly
complex regulations and requirements involving proper billing, coding and documentation, the risk of error increases. Requirements of laws such as the Stark and Anti-Kickback laws and HIPAA leave office documentation practices open to innumerable mistakes, misunderstandings and oversights. Additionally, any office that is billing Medicare is at risk for an audit by a managed care entity or by a Recovery Audit Contractor (RAC), both of whom have become increasingly prevalent and are compensated by a percentage of the provider’s overpayments.

Next Steps

Now is the time to evaluate the insurance needs for your practice in the upcoming year. Certainly, a professional broker will dig through the many options available to help you find the coverage that best suits the needs of your practice. As you begin this year of 2013, do not delay in protecting the practice you have worked so hard to build.

Steve Radespiel is an Insurance Agent at Insurance Center of North Jersey in Hackensack, New Jersey.