



THE IMPORTANT OF INSURANCE

Introduction

An exercise that most people do not consider doing regularly is carrying out a review as to whether you have the correct cover in place as it is essential to make sure you are properly protected for any eventuality that could occur and cause financial loss. We will look at the different types of insurance policies on the market that cover aesthetic practice and the clinics, what the differences are and the key areas you should consider when choosing the best policy for you.

Different insurers will provide different levels of cover depending on who you chose and for this reason it is important that you check that the cover you purchase is suitable for your business practice from the inception. There would be nothing worse than notifying your insurer of a potential claim and at this stage finding that the cover you had is not suitable or is not able to assist. Not only would there then be the financial burden to put the matter right whether this by employing legal representation or making a compensation award but also the additional stress and pressure of dealing with it at the same time as keeping your business running can be difficult.

Medical Malpractice Policies

A Medical Malpractice policy is a professional indemnity policy that works by protecting you against any failure in your professional duties to a client/consumer. Unlike other insurances such as your car and home insurance, these policies are written on what's called a claims made basis. This means that the policies need to be continuously in force and they are in place for when an incident arises and the claim is made.

If you were to move your policy to a new insurer at renewal, you would need to obtain your Retroactive Date which is the date of when you first went on cover with an insurance provider and first started practicing aesthetics. The new insurer would then note this date on the policy and backdate any cover from when you first had insurance regardless of whether you were with a different provider or not. In the event a claim, even if the treatment had taken place prior to the inception of the current insurer's policy, they would deal with the claim.

The most common type of claim that a Medical Malpractice policy responds to is any incident or injury whether noted within the consent form or not that the patient may try and pursue you for legally or make a direct request for compensation.

An example case could be when a patient attended to have a lip filler treatment and subsequently post treatment they then advised that the filler had gone lumpy. Despite this being a consented side effect of this particular treatment, the patient was left dissatisfied with the follow up and aftercare provided by the clinic and as such pursued a medical negligence claim 2 years later. Due to the time that had elapsed, the practitioner had misplaced the patient's consent form and therefore was unable to prove that they had fully consulted and consented the patient.

On this basis the policy would be triggered and the matter may be settled due to the lack of proof in the defence. In this instance, the patient was awarded with £3000 in damages, their legal costs were £8,900 and the defence costs were £4800. Had they not had the indemnity in place, the insured would have needed to pay this themselves but through having the policy and no excess for this particular treatment, the insurers paid all of the costs.

The policy also comes with extensions within the main scope of this cover depending on who the policy is taken out with. With the Hamilton Fraser Cosmetic Insurance policy, there is also cover for negligent misstatements or negligent misrepresentation, infringement of intellectual property rights including copyright, trademark or moral rights or any act of passing-off. Additional cover is available for defamation, loss of documents, corporate manslaughter, allegations of sexual misconduct and crisis containment. These additional features are tailored to provide an all-round solution to all potential claims that an aesthetic practitioner may face and are continuously reviewed in order to make sure they provide relevant levels of cover for the ever changing industry.

There are also two additional sub sections within the policy. The first being Products and Public Liability (Work Away). This is tailored for the mobile practitioner who may be working from patient's homes or from different clinic premises. This would cover in the event that for example a patient tripped over the treatment bag and they decided to pursue you for damages if they sustained an injury. In addition, if there was an issue with the product that had been used and this had caused injury to a patient and the manufacturers were not able to pick up the claim then you would have back up cover within this policy.

The final section of this policy is for Personal Accident. In the event that you suffered an injury in or outside of work (providing it was not from participating in a hazardous activity such as skiing or horse-riding) and were signed off work as a result the policy would assist, The policy would pay a weekly award for the time you had been signed off for until you return to work. This is particularly useful for self-employed practitioners who do not work for a clinic or company and earn a salary and are solely reliant on the income of the individual appointments.

In the event of total disablement or death, the policy would pay a set rate for this also and also provide additional cover for expenses that may be occurred such as counselling,

workplace alterations and any retraining that may be required in order to get you or your business back to operating as close to how you were prior to the incident occurring.

Other policies

Aside from insuring yourself against medical negligence claims, it is also paramount to consider other policies that will protect your business from other potential claims.

Surgery / Clinic Insurance

This type of policy is designed to provide cover for the premises in which you operate your business from.

These policies can be tailored to your exact requirement as each premises set up is different. Not everyone will own their own premises but if you do then you will need to consider whether you have buildings insurance so that in the event there is damage as a result of risks such as flooding, fire or burglary for example, then the policy would be able to respond and get the premises and business back to its original operational state.

With aesthetics, there is also a lot of expensive equipment used for the various procedures and in addition the stock that is held in terms of the products used and sold can also be costly. For this, a contents policy will need to be considered and purchased so that in the event damage occurs to any of this or there is accidental damage or an equipment breakdown then the policy would cover the cost of repairing or replacing these items.

Business interruption insurance covers you in the event that if you do suffer a loss at the premises and are unable to operate then your income and any overheads you may be due to pay would be protected and paid out on your behalf so that you do not have to worry about paying staff wages for example while you have no income being generated.

Indemnity is also available for portable equipment which can include items such as laptops, tablets and mobile telephones as well as portable equipment you may use away from a clinic setting. Cover for this can be extended to worldwide cover so if you travel for exhibitions and conferences then you would be covered in the event something happened causing you to need to replace them.

If you do own your own premises, although not mandatory, it would be wise to purchase public and products liability for the premises. This differs from the work away cover under the initial Medical Malpractice policy as it provides cover in the event that a member of the public was to become injured as a result of hurting themselves within your premise. This could be them slipping in reception or if something fell off the building and caused an injury. Depending on the nature of your set up and lease for example, if there is a freeholder then they may already have this cover in place so it is worth double checking and if you are still unsure speak to your insurance provider who will be able to confirm what exactly it is that you need.

If you have any employees, then you are required by law to purchase an Employers' Liability policy. This is the only other mandatory insurance policy required by law in the UK other than car insurance. This protects you in the event that an employee brings a case against you for an injury or illness whilst they are or were working for you. The minimum limit of indemnity you are required to hold is £5,000,000 but a lot of insurers will provide a £10,000,000 limit as standard. When you purchase an Employers' Liability policy then you will be supplied with a certificate which needs to be displayed at the premises. If Employers' Liability is not purchased then you can be fined £2,500 for every day that you are not correctly insured and £1,000 for not displaying the certificate.

Directors & Officers Insurance

This type of policy is to protect the actions and decisions made by the Directors and Officers of a company and any legal action that is pursued directly as a result. Providing there has not been intention wrongdoing nor criminal activity then this policy would look to provide protection for any legal action.

An example of this could be if a business was losing money and the director was pursued by its shareholders for the business decisions that had been made which had given rise to a loss of income and potentially the insolvency of a company.

Cyber & Data Liability

In today's market, there is a wider reliance on the Internet, a website for your business and the holding of client's personal data. This means the requirement for a policy to cover you against a breach of your obligations in this arena is becoming more and more necessary. A policy of this kind would provide cover for any breaches of your obligations, attacks by hackers and media liability.

In addition, there will be changes to the General Data Protection Regulation in May 2018 which means there will be additional requirements on holding data on your patients and the way it is stored, its purpose and security. Patients will also have a greater right to knowing what is held by a company, why and to ask for it to be corrected or deleted if they require it. Therefore it has never been more imperative to ensure that your method of storage whether it be electronic or paper copies is secure and up to date.

It was reported in the Gov.uk Cybersecurity Breaches Survey 2017 that 46% of UK businesses suffered a cyber-breach. No matter how small a business you are operating the possibility of being at risk is possible for anyone. In fact, for a smaller business it is easier to become a target of such attacks as their antivirus and backup software is likely to be less sophisticated than larger firms.

It can be a daunting task to try and determine what policies are right for you and your business. It is important to understand what each policy has to offer from one insurer to another to know that you are getting the best level of cover for the price and cheapest is not always the best product for your needs.

In order to start this process, the best place to start is understanding where you have exposure and potential risks. For example, if you are carrying out treatments you will definitely need a Medical Malpractice policy, if you have employees then you will have to get an Employers' Liability policy and so on. If you are unsure, speak to your insurer and explain how you operate your business and from there they will be able to advise what the best policies are for you and your business.