

Malpractice Insurance

Report

Every year as many as one in nine lawyers gets hit with a malpractice claim. So even though malpractice insurance isn't mandatory in California, going without it can be a risky prospect. To help new bar admittees and others shopping for malpractice insurance, we've compiled a list of carriers that cover California lawyers.

The good news is that competition has kept premiums relatively low, and companies are offering coverage options designed to sweeten the deal. Much like adding options to a new car, those insured can pay for extras like "first dollar defense," which allows them to avoid paying the deductible if they win their case, or "defense outside of limits," which means defense costs up to a certain amount won't be taken out of the liability limitation. Some companies are even willing to consider multiple-year policies that freeze rates for up to three years.

But Joseph P. McMonigle, a partner at San Francisco's Long & Levit and chair of the ABA Standing Committee on Lawyers' Professional Liability, recommends factoring in more than price when purchasing insurance. "Firms should consider lowering their deductibles," he says, even though it means an increase in upfront insurance costs. "Many don't budget for high deductibles," he warns, "and if they get hit with a claim, that can really affect cash flow."

There are things you can do, however, to take the sting out of premium costs. For lower premiums, McMonigle recommends that firms take a hard look at their practice areas. "Firms dabbling in something high risk, like securities, banking, or real estate, should get out," he says. "If only 5 percent of your business is in banking, it could be more trouble than it's worth." And sole practitioners can reduce their premiums by being up on the latest in law office management.

When shopping for coverage, the insurance company's reputation is also worth considering. As in past years, we've included ratings issued by A.M. Best Company, a well-respected rating agency that profiles insurance companies. An "A" rating or higher means the company has shown a strong ability to meet its obligations to policyholders over the long term.

Further protection is provided by the California Department of Insurance, which bestows "admitted" labels on companies that pass stiff state requirements. If an admitted carrier becomes insolvent, the California Insurance Guarantee Fund will step in and pay up to \$500,000 of the claim. Nonadmitted carriers can be lifesavers for firms having trouble finding coverage, however. They will often underwrite risks that admitted carriers won't cover.

The American Bar Association has been following malpractice insurance issues for years and is a good source for further information. It publishes a detailed, free annual guide to selecting malpractice insurance. (Call 800/285-2221, or for an electronic version go to www.abanet.org/legalserv/lpl.html.) It also offers a malpractice hotline (312/988-5754).

Janet Weeks is an editorial assistant at CALIFORNIA LAWYER.

**By
Janet Weeks**