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SANDY'S SIDELIGHT

MedSpa Insurance Newsletter

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MEDSPAS—THE IMPORTANCE OF TIMELY INCIDENT REPORTING



Claims are a topic which no one likes to discuss, but that doesn't mean they don't exist. One need only to watch the news, read a newspaper or peruse Google to find out malpractice claims are a very real threat. For example, the following Orange County, CA claim was outlined in a recent article—although this was not a medspa claim, the situation is similar to many facts found in medspa claims:

A 66 year-old diabetic woman suffered third-degree burns to her feet and legs and required skin grafts, sustained kidney damage, and suffered two heart attacks after her feet were placed in water that was too hot during preparation for a pedicure. Settlement: \$2,000,000.

Many medspa business owners might not understand the importance of informing one's insurance agent of a potential claim—an incident which has occurred for which the patient has not [yet] made a claim, but for which they have made allegations against the spa, its owners and/or staff.

Insureds are often under the misconception that malpractice incidents 'count against' them, similar to

bender will count as points against their renewing premium. Many incidents never evolve into claims for a variety of reasons (the spa did their due diligence in keeping the patient satisfied, the patient disappears once they realize they will need to answer investigative questions by a claims adjuster, etc.), resulting in a no harm/no foul situation for the insured. Other claims may accrue a small cost of investigation, but never result in any claim settlement, because the insurance company's investigators often discover facts indicating that the insured was not negligent, despite the allegations. Some will result in full-fledged claims and payments made may affect the insured's renewal premium; however, the insured will be very glad they have insurance in place, to defend these claims.

One of the benefits of having insurance and reporting incidents early, is that the insurance carrier is in a position to investigate and ascertain facts, identify witnesses and develop a viable defense while the incident is fresh in everyone's minds and the players are still available—the practitioner who allegedly caused the incident is still employed by the spa and the supervisory Medical Director is still working for the spa. However, if a spa owner disregards allegations, complaints and threats from a dissatisfied or disgruntled patient and does not report this to the insurance company, should a claim ensue from that incident, the insurance policy may justify denial of the claim by the insurance company.

The important thing to remember is that as an insured, one has duties in the event of a potential claim, which are clearly delineated in a malpractice insurance policy, including but not limited to:

“...you must give us [the insurance company] written **notice as soon as is practicable...**”

“All insureds must fully cooperate with us in the

conduct, defense and investigation of any claim or suit...we may require the insured to submit to an examination under oath...produce and make available records, documents..."

"The insured must not make any payment, admit any liability, settle any claim, assume any obligations, or accept or reject arbitration without our prior written consent."

"The insured shall accept our assignment of counsel and...shall refrain from discussing any claim or suit with anyone other than counsel retained to represent the insured..."

PROTECT YOUR RIGHTS UNDER YOUR MALPRACTICE POLICY, REPORT POTENTIAL CLAIMS TO YOUR INSURANCE AGENT IN A TIMELY MANNER AND DON'T TRY TO ACT AS YOUR OWN ATTORNEY



***Happy 2011 from
Sandy's Sidelight Newsletter***

New Digitalized Version

Every effort has been made to verify the information herein, but it cannot be guaranteed, nor should it be used as a substitute for professional advice. For further specifics, or to answer any questions, feel free to call. If your insurance coverages are written with another agent, this is not intended as a solicitation.

Stay Enlightened Stay Healthy Stay Beautiful

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