

Clinicians: I need to fill out a form that wants to know my malpractice coverage with CCHCS; how do I answer?

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We commonly get asked this question in varying ways. Let's start by explaining how the State of California protects you, akin to a malpractice policy, and then return to our recommended answer.

First of all, the State of California is permitted to act as its own insurance company, so it does not buy "malpractice insurance" for its employees. Instead, the State in effect insures itself and covers them in that fashion.

The State both defends employees who have been sued for acts within the scope of their employment and indemnifies them (pay settlements or judgments on their behalf) for actions also within the scope of their employment. The State will not defend or indemnify if the action was a willfully wrongful (deliberate) act causing harm. Imagine an employee is unloading bricks and one accidentally falls off a pallet and strikes a visitor. The State would defend and indemnify that employee, if legal action were to result. However if that employee threw a brick at the visitor, causing injury, that employee would NOT be defended or indemnified in any resulting legal action.

The State of California will pay whatever settlement to which it agrees, or any judgment (not including any punitive damages, which we discuss below), regardless of amount. If it were an insurance company, that would be called unlimited coverage, or an "open" policy limit. You can't buy that in the free market.

The State will cover you for any acts that occurred while you were employed in state service and acting in the scope of that state service. That means that, even after you leave state service, if you get sued for a negligent act that happened while you were in state service, you would have coverage. In the private sector this is known as "occurrences" coverage. It is virtually non-existent anymore. In its place is what is known as "claims-made" coverage, which provides coverage regardless of when the event occurred, but only during the time that the policy is in effect and the claim is presented. That means when you retire, for example, in the private sector you need to continue insurance in case someone later sues you for something that happened in the past, or procure the alternative and expensive "tail coverage." This is unnecessary in state service.

Privacy Corner

Submit your question to the Privacy Office at privacy@cdcr.ca.gov.

Q: "Why do I have to take Privacy Awareness Training every year?"

A: Privacy Awareness Training is required by national and local mandate. It is stipulated in the Health Insurance Portability and Accountability Act (HIPAA), California State Law (SAM 5305.x) and CCHCS Policy (Volume 13). All employees and contractors are required to take Privacy Awareness Training upon hire, after any significant privacy law change, and once every calendar year thereafter. For more information about Privacy training see our FAQs.

So, the answer to the question posed above is that the State of California is the insurer as a self-insured government entity, the coverage is unlimited in amount, and it is considered to be occurrence coverage.

It is better than any insurance you could possibly buy in the free market.

Oh, and punitive damage awards? Punitive damage awards against an employee (extremely rare) may be paid with approval of the Legislature.

We are not aware of any case in which one of our employees has ever been required to pay out of pocket in any legal action.

