

## **What to Do if You Have Been Declined Insurance Coverage or Have Special Coverage Problems**

Once you have been declined malpractice insurance coverage by a carrier, obtaining coverage from a second carrier may be difficult. For one thing, a second carrier is likely to ask whether you have been declined by another company. Second, the same problem that caused the original declination of coverage is still likely to exist, making your chances of securing coverage doubtful. The same holds true if you have special coverage problems (e.g., a large percentage of your practice is in securities). However, there are some things you can do to increase the chances of obtaining coverage for yourself or your firm.

### **Helpful Tips**

1. Provide as much information as possible to the insurer up front. Don't wait to be asked about past claims or potential problem areas. Be as forthcoming as possible. Avoid answering any question on the application form with "not applicable." Explain every thing that might be declinations of coverage.
2. Explain fully your firm's docket control system. Describe the system in detail. Emphasize that you have some sort of cross-checking mechanism by more than one person to ensure accuracy and efficiency. If you are a sole practitioner and have no office staff, explain your circumstances and ask the insurance company to tell you if your system is insufficient and, if so, what you should do to improve your office management procedures.
3. Include on the application form all memberships in professional associations (e.g., state and local bars and the American Bar Association) and attendance at CLE events.
4. If you have problems due to unusual circumstances, make direct contact with an underwriting supervisor of the insurance company. In your situation, what you are trying to do is to override the underwriting guidelines, which have little flexibility. Only an underwriting supervisor has the authority to supersede those guidelines. If you have a broker, have the broker send a letter from you to the manager of the underwriting department with the following basic message: "I realize that I am an exception to your guidelines. Please review my application individually."
5. If you have been declined by another carrier, you face a serious problem. On the section of the application that asks, "Have you been declined for coverage by another insurance company?" answer "yes." Explain why you were declined and what steps you have taken to correct the situation. For example, if you were declined because of inadequate docket control procedures, explain fully the systems that you have implemented. In short, do everything you can to let the insurance company know that you are not a bad risk and that past problems have been rectified.

6. Participate in a “Risk Management Audit Program.” This is an audit of the firm’s physical location by an independent, skilled auditor. Ask the auditor to specifically comment on your behalf regarding any insurability concerns that the underwriter may have.