

# NAPNAP Position Statement on Malpractice Insurance for Nurse Practitioners

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The National Association of Pediatric Nurse Practitioners (NAPNAP) recognizes that nurse practitioners (NPs) need access to affordable and adequate malpractice insurance, also called *professional liability insurance*, to protect themselves and their patients.

Advanced practice registered nurses are part of an increasingly complex health care delivery system. NPs have a responsibility to protect their patients and themselves by practicing within the scope of practice as mandated by state statute, rules, and regulations (CNA & Nurses Service Organization, 2017; Russell, 2017). As the workforce has grown, the number of malpractice claims involving nurse practitioners has increased; however, the percentage of claims has

remained stable (Sweeney, LeMahieu, & Fryer, 2017). Data from the National Practitioner Data Bank provides clear evidence that NPs have lower rates of malpractice claims per numbers of patients compared with physicians and that this is the lowest among health care professionals (Chesney & Duderstadt, 2017; U.S. Department of Health and Human Services, Health Resources & Services Administration, 2018a).

Malpractice insurance protects health care providers and patients. Although an employer may provide malpractice insurance coverage, NPs are encouraged to analyze employer-provided coverage and determine whether carrying individual malpractice insurance is warranted (Brous, 2017a; Buppert, 2017). Providers have the responsibility to understand the malpractice risks in their own work settings and to be aware of the type of coverage afforded by their employer-provided and/or individual malpractice policies. Providers need to understand what type of legal support is available through employer-provided coverage and whether the individual NP or the employer is the client. If the employer is the client, the NP may not have a say in any settlement, which may or may not require reporting to the NPDB. Licensure applications, hiring applications, and certification to participate in government programs such as Medicaid are subject to review by the NPDB; provider identification within the NPDB can be viewed as a reflection of negative past performance and may have implications for the individual's future practice opportunities (Russell, 2018).

NPs working in various settings, including academia, acute care, specialty practice, government, private practice,

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All regular position statements from the National Association of Pediatric Nurse Practitioners automatically expire 5 years after publication unless reaffirmed, revised, or retired at or before that time.

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etc., will have varying liability insurance needs, because insurance provisions and needs may be different in each setting. NPs working in telehealth positions may require additional malpractice insurance coverage, because many current professional liability policies exclude telehealth provisions (Balestra, 2018). The inclusion of license protection defense is an important component of malpractice insurance that is designed to protect NPs in the event of regulatory or disciplinary action (Balestra, 2018). License protection reimburses the NP (up to an applicable limit) for defense of disciplinary charges and other covered expenses of a covered incident if a complaint is brought against the NP before the state licensing board. Licensure discipline in one state may lead to license restriction in other states, as well as encumbrance (limitation) of one's registered nurse license. This type of discipline is known as reciprocal enforcement (Brous, 2017b).

Patients have legal rights to receive adequate and appropriate diagnosis and treatment or referral to a specialist that is consistent with the expected standard of care (National Association of Insurance Commissioners, 2018; Sweeney, LeMahieu, & Fryer, 2017). If patients believe that the care they received from an NP does not meet the expected standard, they can file a legal claim against that individual. Complaints may also be registered through state boards of nursing. If the claim is judged as warranted, malpractice insurance is designed to pay for the NP's legal fees, patient-awarded damages, and legal fees that are assessed by the defense and prosecution, subject to the limits of the policy(ies). Any claims resulting in a monetary settlement or judgment are also subject to reporting in the NPDB (National Council of State Boards of Nursing, 2018; U.S. Department of Health and Human Services, Health Resources & Services Administration, 2018b). Adequate malpractice insurance coverage is essential, and it is important for protection of both the NP and the public that health care providers understand the immediate and long-term implications of any malpractice claims or settlements.

NAPNAP advocates the following.

- NPs should have access to affordable malpractice insurance. NAPNAP supports affordable insurance rates for NPs.
- Employers have a responsibility to provide financial support, as well as education and information regarding malpractice insurance coverage, for their NP employees.
- NPs have the responsibility to understand the Nursing Practice Act and malpractice laws, including applicable scope-of-practice limitations, in the state(s) where they are licensed and/or practicing.
- If current professional liability policies exclude telehealth from coverage, NPs should ensure that they obtain additional coverage as protection from liability issues.

- NPs have the responsibility to understand the malpractice coverage limits applicable to their provision of professional health care services.
- NPs have an obligation to consider the role of license protection coverage as it relates to their malpractice insurance policy.
- All NPs should obtain ongoing continuing education in risk-management activities (assessment and reduction).
- Graduate nursing programs should incorporate education regarding risk assessment, liability, and malpractice insurance coverage into their educational programs (Sweeney et al., 2017).
- Research and data collection related to NP malpractice liability should continue and should be published to improve NPs' knowledge about malpractice.
- Nurse practitioners should support legislation at the state and national level to ensure that malpractice insurance is affordable and obtainable for all health care providers.

NAPNAP is an organization whose mission is to empower pediatric nurse practitioners, pediatric-focused advanced practice registered nurses, and their interprofessional partners to enhance child and family health through leadership, advocacy, professional practice, education, and research. NAPNAP believes that NPs have a responsibility to ensure that the malpractice insurance coverage applicable to their provision of professional health care services is sufficient to protect themselves and their patients.

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