

# REVIEW

Midwest Medical Insurance Company

## What Limits Should I Carry?

MMIC Underwriting and Sales staff are frequently asked, "What limits of liability insurance do you recommend for my practice?" There is no "right" answer to this question and MMIC cannot determine what is best for each individual situation. However, MMIC can offer guidance on key questions that may influence your decision.

## What Limits Do Other Physicians Carry?

In 2005, \$2 million per occurrence and \$4 million aggregate are the most common limits carried by MMIC policyholders in solo and clinic-based practices in Minnesota, Iowa, North Dakota and South Dakota (38 percent of those policyholders). The second most common limits are \$1 million/\$3 million (37 percent).

Selection of limits by physicians in Nebraska and Wisconsin is significantly impacted by the presence of patient compensation funds in those states. Nebraska is in a transition period, moving from a requirement of primary policy limits of \$200,000/\$600,000 to a requirement of \$500,000/\$1 million. The majority of Nebraska physicians carry the minimum limits required to qualify for coverage by the fund. The vast majority of Wisconsin physicians carry the \$1 million/\$3 million limits required by the Injured Patients and Families Compensation Fund.

Average limits for physicians employed by hospitals tend to be higher in all states because employed physician coverage typically matches the limits carried by the hospitals.

## What About Physicians in My Specialty?

Many MMIC policyholders have opted to purchase higher limits in recent years. Excluding Nebraska and Wisconsin, the breakdown of limits purchased by physicians in selected specialties in 2005, compared to 2001, was:

### Internal Medicine – No Surgery:

	2001	2005
\$1 million/\$3 million	55%	35%
\$2 million/\$4 million	36%	37%
>\$2 million/\$4 million	9%	28%

### Family Practice – OB, No C-Section

\$1 million/\$3 million	49%	44%
\$2 million/\$4 million	47%	44%
>\$2 million/\$4 million	4%	12%

### Obstetrics/Gynecology

\$1 million/\$3 million	55%	35%
\$2 million/\$4 million	36%	37%
>\$2 million/\$4 million	9%	28%

### Radiology

\$1 million/\$3 million	45%	7%
\$2 million/\$4 million	31%	14%
>\$2 million/\$4 million	24%	79%

### General Surgery

\$1 million/\$3 million	55%	40%
\$2 million/\$4 million	39%	44%
>\$2 million/\$4 million	5%	16%

## How High are Typical Claim Payments?

There has been a great deal of publicity recently about rising settlements and awards in medical malpractice claims nationwide. MMIC has not experienced the "runaway" jury awards that have been rendered in many states, but Midwestern juries are definitely

(continued on page 2)

## INSIDE

<b>MMIC Group Corporate Counsel Announces Retirement .....</b>	<b>3</b>
<b>2005 Legislative Update.....</b>	<b>3</b>
<b>Your Clinic's Confidential Information is Secure.....</b>	<b>4</b>

## What Limits Should I Carry? (continued from page 1)

starting to award higher damages, reports Jerry Zeitlin, MMIC's vice president of claim. Information from the National Practitioner Data Bank is helpful in getting a general sense of current claim values:

### National Practitioner Data Bank – 2004 Reported Indemnity Payments, All Specialties

	Average	Largest
Minnesota	\$275,935	\$2,448,500
Iowa	\$448,905	\$1,949,250
North Dakota	\$437,556	\$3,741,250
South Dakota	\$238,273	\$982,500
Nebraska	\$208,590	\$1,046,500
Wisconsin	\$369,376	\$2,848,500
National	\$294,754	\$16,499,950

### Percent of Cases with Indemnity Payment $\geq$ \$1 million: 2002 – 2004

National Practitioner Data Bank – nationwide	7.5%
MMIC	3.7%

Average payments have been increasing significantly in recent years. Even in Minnesota, a relatively calm state with the lowest professional liability rates in the country, MMIC experienced a 26 percent increase in average indemnity between 2001 and 2004.

## What If I Am In a Multi-specialty Clinic?

“To appropriately protect the clinic, MMIC generally requires all physicians on a clinic policy to carry the same limits, regardless of specialty,” says Jeff Pearson, MMIC senior underwriting manager. “In a multi-specialty clinic, this means that the entire group may end up with higher limits than one physician might opt for individually based on his or her own specialty, but it is the best way to ensure that the broad exposures of a multi-specialty clinic are adequately covered.”

## What Procedures Am I Performing?

When it comes to malpractice claims and awards, not all types of treatments are created equal. If you are performing therapeutic or diagnostic procedures that carry higher risks of serious adverse outcomes, higher limits of liability may be advisable. Among the

common claims that often result in higher than average damages are those involving birth-related injuries and failure to diagnose cancers, myocardial infarctions, meningitis and pulmonary emboli. Neurosurgical procedures also carry high risk of serious damage and many risk managers anticipate an increase in high damage claims related to bariatric surgery.

## What is My Tolerance for Risk?

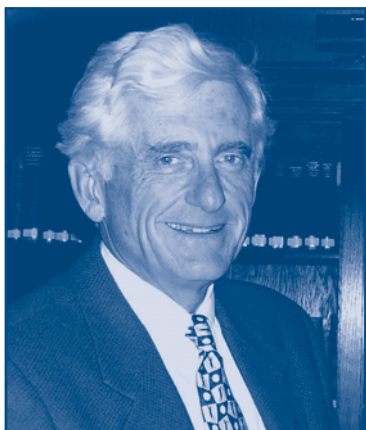
Although medical malpractice verdicts that exceed policy limits are extremely rare in the Midwest, there can be no guarantees about how a jury will respond to any one particular case. Zeitlin advises physicians to select limits that will place them squarely in their comfort zone for risk. “If you become involved in a claim, you need to have your energies focused on mounting an appropriate defense.”

## What is the Cost of Additional Coverage?

The marginal cost of increasing limits from \$1 million/\$3 million to \$2 million/\$4 million varies by specialty, but is in the range of 25–28 percent of the underlying base rate. The incremental cost decreases for progressively higher limits. “The cost factor carries different weight for every group,” says Pearson. “Physicians need to find their own balance of risk, cost and benefit for their unique exposures.”

There are many factors to be weighed in determining what limits of liability are most appropriate for your practice. What is best for one group may be entirely different from what a similar group might be comfortable with. If you work with an agent or broker, he or she should be your first contact for help in making your decision on limits. Although MMIC cannot recommend the “right” limits for any physician or group, the Underwriting Department staff is also well equipped to provide information and discuss options with you. Contact them at 1-800-328-5532.

## MMIC Group Corporate Counsel Announces Retirement



MMIC Corporate Counsel  
Charles A. Geer

The MMIC Group board of directors honored Chuck Geer, MMIC's corporate counsel, on his retirement with a board resolution thanking him for his many years of services. Chuck was instrumental in the founding of Minnesota Medical Insurance Exchange (now MMIC) and he has provided invaluable legal and business advice since 1980.

Throughout his 25 years of service to MMIC, Chuck has been a staunch supporter and has played a key role in many significant corporate developments. He helped guide MMIC through the mergers with the Iowa Physicians Mutual Insurance Company and the Medical Liability Mutual of Nebraska, the restructuring of MMIC and the creation of MMIC Technology Solutions Inc.

---

## 2005 Legislative Update

Although there was some limited activity in the 2005 state legislative sessions related to medical malpractice, no significant reform bills received much attention and "wins" for health care providers came primarily in less high profile improvements to the liability system. The outcome of key bills related to medical malpractice was:

**Minnesota:** Although medical malpractice tort reform issues, including limits on non-economic damages, received hearings in the Minnesota House, no bills progressed beyond early discussions. A bill to establish a statute of repose (to place an absolute limit on how long a patient has to file a malpractice lawsuit) was not pursued after authors determined there was limited legislative support.

**South Dakota Apology Bill:** The legislature passed HB 1148, declaring that no statement made by a health care provider apologizing for an adverse outcome in medical treatment is admissible against the provider to prove malpractice. Admissions against interest, however, can still be introduced at trial for the purpose of impeachment.

**North Dakota Expert Certification:** For many years, North Dakota has required plaintiffs in malpractice cases against physicians, nurses or hospitals to obtain an expert opinion supporting the allegation of malpractice within three months of the commencement of a lawsuit. In 2005, the legislature expanded this requirement to apply to lawsuits against clinics, nursing facilities and ambulatory surgery centers, and removed an exemption for cases alleging lack of

informed consent. SB 2199 also heightens the standard for the expert opinion, requiring it to support a prima facie case of professional negligence.

A bill proposing mandatory arbitration of medical malpractice lawsuits failed in the North Dakota Senate.

**Nebraska Patient Safety Improvement Act:** LB 361, passed into law, establishes a system for reporting and tracking of "patient safety events" for the purpose of promoting a culture of safety and quality and reducing the incidence of adverse health events. Reports to patient safety organizations are granted legal protections.

**Iowa Interim Study of Malpractice:** The Iowa House adopted a resolution to conduct an interim study of factors affecting the availability and affordability of medical malpractice insurance. The Legislative Council will make a final determination on whether such a study will proceed.

Although introduced, proposals to limit non-economic damage awards against health care providers and to establish a patient compensation fund for medical malpractice claims did not receive significant attention this session.

**Wisconsin:** The governor's budget bill initially proposed transferring significant funds from the Injured Patients and Families Compensation Fund to pay for broader health care initiatives. The budget bill is still being debated, but this controversial provision has been removed.



## Your Clinic's Confidential Information is Secure

MMIC values its policyholders and clients. We recognize the importance of protecting confidential information about your clinic and we strive to ensure that your information is secure. Here is how we make sure nonpublic information about you or your clinic is kept confidential.

- We do not sell your e-mail address or any policyholder or customer information to third parties.
- We do not share any type of information between the insurance company and the technology company (MMIC Technology Solutions).
- We communicate to all MMIC Group employees the need to protect our clients' personal information. All employees sign confidentiality agreements.
- We collect certain information on our Web site only to identify you as a client to provide tailored information about our products and services.
- We keep information gathered from surveys confidential.
- We are in compliance with our business associate obligations under the HIPAA Privacy and Security regulations.