

## Ambulatory Surgery Centers (ASC)

### White Paper



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## WHY AMBULATORY SURGERY CENTERS NEED SEPARATE COVERAGE

Many physicians choose to go the route of simply adding their ambulatory surgery center (ASC) to their individual physician's malpractice policy. This could be a grave mistake leaving the surgery center and physician uninsured or underinsured in some areas. It could also create an E&O exposure for your agency if you are only selling them the individual physicians policy.

### Here are the main points why the individual doctors' malpractice policies are generally insufficient/inadequate:

- The physician's malpractice policy generally only covers the defense of the physician regarding the liability of the ASC. It generally provides no defense for the surgery center itself. If there are non-physician owners, this could be a large exposure for them.
- ASC's generally have other staff (nurses, aides, administrative staff, etc.) that could be named in a lawsuit. Those employees would likely not be covered under the physician's malpractice policy (especially and unless the doctor was involved). Additionally, if the doctor is involved and there is coverage for them, it's more of a "ride along" and they would not have their own coverage where they would be covered under the entity policy.
- Coverage for the actual ASC may be more limited on the physician's malpractice and not as broad as a professional policy designed for the ASC.
- If there is a loss at the ASC that doesn't necessarily involve the doctor's malpractice, covering the ASC on the doctor's policy would mean that their limits would be degraded for their future claims. Additionally, if they were both named, the plaintiff's attorney would likely file suit against both the doctor and the ASC individually, creating a need for multiple defenses which would rapidly erode the doctor's available limits to defend himself.
- Depending on the state, Tort Reform laws don't always protect the ASC the same as they do the actual doctors. ASC's can often be found liable for much higher limits than doctors without "gross negligence".
- Depending on how the ASC and doctors are billing Medicaid, Medicare and private insurance (which provider number they are using), the ASC can be found separately liable for misbilling. While in most cases this would be a separate policy that covers first party billing errors, some policies have small sublimits on their ASC policies, whereas this is usually not a provided coverage on a Physicians Malpractice policy.
- Often an individual physician's policy will not provide coverage for Abuse/Molestation exposures, however it is readily available on ASC policies.
- ASC's are typically not qualified to be part of state compensation funds so they wouldn't enjoy the lower caps on damages that physicians would.
- Physicians malpractice policies likely would not cover negligent credentialing claims.



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**Reach out to Vicky to discuss your ASC accounts.**