



**Why Obtain Student Medical
Malpractice Insurance?**

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Presentation Goals

Introduction to potential **liability exposures** related to healthcare-related internships

Understand possible sources for **insurance protection**

Review **risk management** tips that may help reduce liability exposures



Liability Exposures

Liability Exposures

When may a student intern be held liable?

A student intern who unintentionally or intentionally causes physical or mental injury to another person as part of a healthcare-related internship activity, may be held legally liable for that injury and thus responsible for the financial damages the person suffers. Even when the injured person's allegations are false, the student intern could be named as a defendant in a liability claim or lawsuit.

Student interns will most likely be held liable under the legal theory of **tort**.

What is tort?

Tort is a civil wrong for which a court will provide a remedy for recovery of damages by an injured person. The most likely civil action will be brought under the legal theory of unintentional tort or **negligence**.

There are intentional torts as well, which are normally deliberate illegal actions like assault and battery. Since these actions are usually uninsurable, they are not a part of this presentation.

Liability Exposures

What is negligence?

A student intern may be found negligent when an injury occurs to a person as a result of the student intern's failure to exercise the **standard of care** that would be expected by a reasonable person under similar circumstances. Sometimes it is called a negligent act, error or omission that causes the person's injury.

There are 4 elements that must be present for negligence to be found:

Duty → **Breach** → **Causation** → **Damages**

Explanations on next slide →

Liability Exposures

1. **Duty** – A duty must be owed by the student intern to the injured person. A duty is the minimum **standard of conduct** required within the internship activity. The standard of care that must be taken by the student intern to meet his or her duties is generally that of a reasonable and prudent person.

Standard of conduct can be established by applicable university and/or host site policies and procedures, internship guidelines, practice standards, scope of intern's responsibilities, code of ethics, federal state and local laws, contracts, court decisions, societal expectations, etc.

2. **Breach** – A breach of duty must exist and is proven by evidence that the student intern by an act, error or omission failed to live up to the standard of care that would be expected under similar circumstances.
3. **Causation** – There must be a cause and effect relationship between the student intern's breach of duty and injury to the person.
4. **Damages** – The damages caused by injury must be demonstrated by the injured person for liability to be imposed. Damages can be proven through hospital or clinical records, testimony of plaintiffs, survivors of plaintiffs, expert witnesses, etc.

Liability Exposures

What are examples of student intern's breach of duty?

- Failure to exercise the proper treatment or procedure
- Improper technique used
- Failure to monitor client's condition
- Improper use of equipment
- Failure to report client's condition to the professional ultimately responsible for client's care
- Failure to complete a proper client assessment
- Failure to refer client to and/or seek consultation from appropriate professionals
- Improper performance of a test
- Inappropriate behavior by student intern such as physical, sexual or emotional misconduct
- Lack of client's informed consent
- Breach of client's confidentiality or privacy
- Inadequate record keeping/documentation
- Improper/inadequate pain management for client

Liability Exposures

What are examples of harm that may be caused by a breach of duty?

- Bodily injury during treatment
- Bodily injury during client training for assistive devices or equipment
- Mental or emotional distress
- Sickness or disease
- Death
- Right of privacy violations
- Libel and slander



Insurance Protection

Insurance Protection

Why is insurance protection important?

The cost of a legal defense and possible award or settlement for a liability claim or lawsuit resulting from a student intern's negligence can be extremely costly, in terms both financial and psychological. Professional liability insurance is the most common financial tool used to pay for these costs. Insurance provides peace of mind and financial protection from the unpredictable outcome of litigation.

What are possible sources for insurance protection?

Depending on the details of the liability claim and who is legally liable, professional liability insurance protection for a student intern may come from one, two or all three of the following:

- University
- Host Site
- Student Intern

Student interns generally assume the university or host site will provide insurance protection. However, this assumption creates a false sense of security as coverage may only be provided under certain conditions. Otherwise, insurance protection will need to come from the student intern.

Insurance Protection

When are student interns insured by the University?

Washington State law (RCW 28B.10.842) permits liability insurance coverage for claims arising out of the negligent actions of regents, trustees, officers, employees, or **agents** of institutions of higher education...

A student intern's liability may only be insured by the state when the student is acting as an **agent** of the University - at the direction or supervision of University faculty or staff. The student must also be acting within the scope of the authority as granted and in good faith.

The difficulty here is that an agency relationship may not always exist during an internship at the host site.

Insurance Protection

When are student interns insured by the Host Site?

This will depend on the scope of coverage provided by the host site's liability insurance program and the student intern's legal status within the host site's organization. For example, a student involved in a paid internship may be considered an **employee** and thus covered like any other host site employee.

The student intern may have coverage as a **volunteer** for the host site. But, this depends on the extent of the host site's insurance coverage for volunteers and a mutual understanding between the host site and student that the student is indeed acting as a volunteer.

The student intern may be covered as an **agent** while acting at the direction or supervision of a host site employee. This will depend on the host site's insurance coverage and details related to the activity that caused the injury.

Again, the difficulty is that these conditions may not always exist during an internship activity.

Insurance Protection

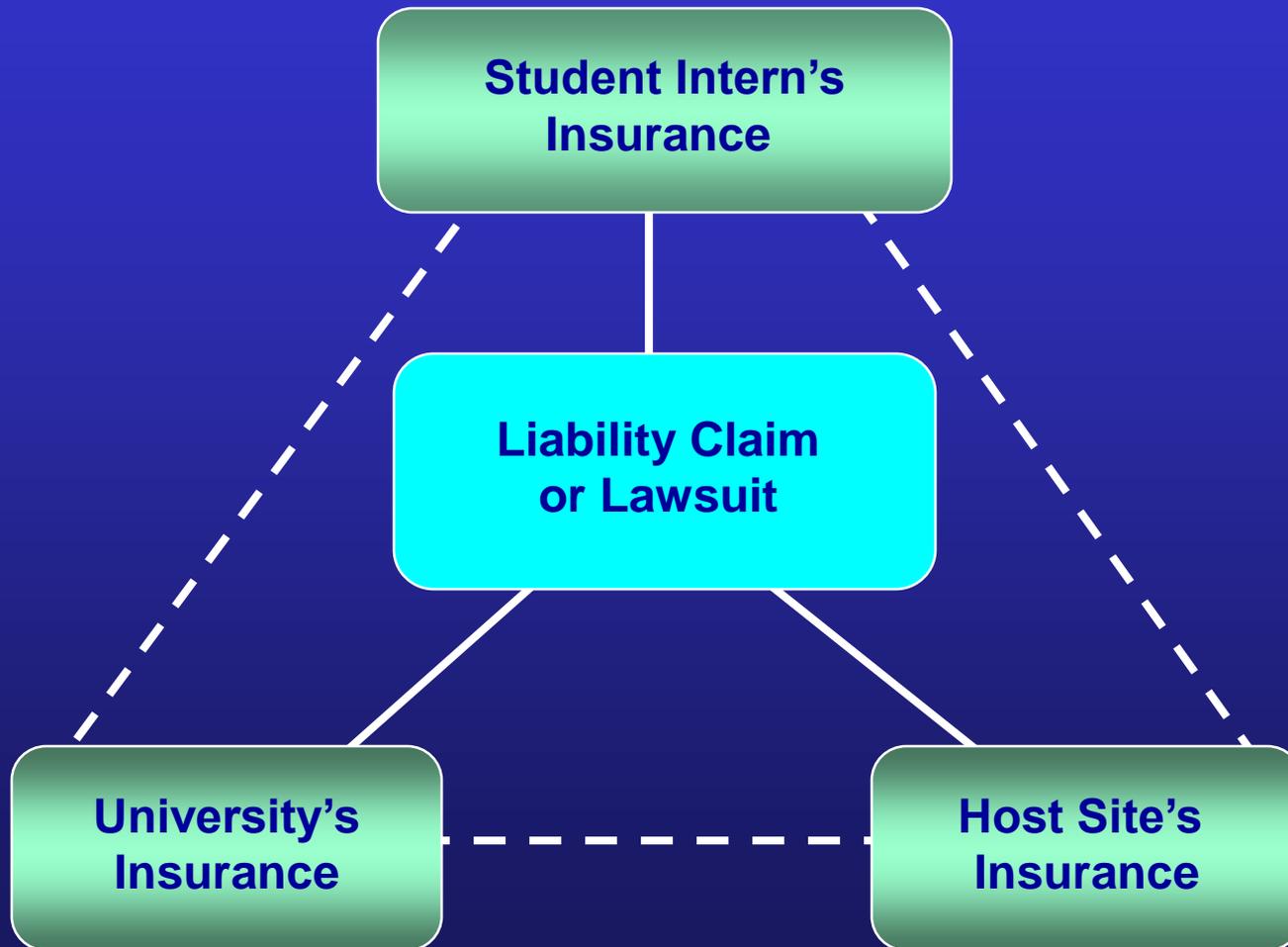
What is the solution?

Since the University and host site cannot guarantee coverage, **the student intern should take responsibility for the purchase and maintenance of his or her own professional liability insurance protection.** This is the best solution to the insurance protection dilemma.

It is an important career consideration for the future as well. It relates to the student's identity as a healthcare professional. When the student leaves the University, his or her source for professional liability insurance protection will be an important consideration.

The illustration in the following slide shows the three-way relationship of insurance to a liability claim resulting from a student intern's negligence. Which insurance actually responds will depend on the details of the liability claim and who may be legally liable. 

Insurance Protection



Insurance Protection

Why doesn't the University buy professional liability insurance protection for its student interns?

Washington State law does not allow the University to purchase liability insurance for students (RCW 28B.10.660). The University can only offer liability insurance to students who assent to the coverage and pay the premium. In other words, the student intern must have the option to purchase the insurance and then must pay for it.

However, the law does not prevent the University from encouraging the student to acquire professional liability insurance for their healthcare-related internship because it is both the responsible and prudent thing to do.

With that in mind, the University **strongly recommends** that students obtain professional liability insurance for their internship activities.

Insurance Protection

Where can student interns purchase professional liability insurance protection?

The University offers **Student Medical Malpractice Insurance** through a Washington State program to its student interns involved in healthcare-related internships.

What coverage is provided by Student Medical Malpractice Insurance?

The program provides professional liability insurance to students who furnish mental and physical healthcare services under internships required by University curriculum. It protects the student against claims arising from real or alleged errors or omissions, including negligence. It pays for defense and settlement costs that the student may be legally obligated to pay for injury or property damage. Of course, actual insurance coverage is determined by the program policy's terms, conditions and exclusions.

The limit of liability is \$1,000,000 per occurrence with a \$3,000,000 annual aggregate.

Insurance Protection

How does a student intern purchase the state Student Medical Malpractice Insurance?

Details are available from your faculty advisor or you can obtain information at the [University's risk management website](#).

Just download and read the instructions and form, complete the form and deliver or send the premium to the University Cashier.

The cost for this insurance is a reasonable flat premium for coverage for 12 months from the date the fee is paid.

Insurance Protection

Are there other, non-state sources for student professional liability insurance protection?

There are professional associations that offer liability insurance resources to student members. For example, the National Association of School Psychologists (NASP) and National Student Nurses Association (NSNA) offer professional liability insurance protection as a benefit or service:

[NASP](#)

[NSNA](#)

Another resource is through commercial insurance brokers. For example, Healthcare Providers Service Organization (HPSO) and Marsh offer professional liability insurance policies to students:

[HPSO](#)

[Marsh ProLiability](#)



Risk Management

Risk Management

Here are some helpful risk management tips that may reduce a student intern's liability exposures:

- Purchase and maintain the state **Student Medical Malpractice Insurance**, or acquire its equivalent professional liability insurance coverage from another source.
- Purchase and maintain a health insurance plan, if you are not already insured elsewhere. There are a variety of individual health plans available from commercial insurers and the University offers a student health insurance plan.
- Clearly understand and comply with your internship responsibilities or duties as required by the University and host site.
- Adhere to faculty advisor and field instructor advice and guidance.

Risk Management

Become familiar with the host site's policies and procedures related to:

- Reporting allegations of discrimination or harassment
- Safety - including required training and use of personal protective equipment
- Handling of confidential, private or proprietary information
- Handling clients (testing, assessment, treatment, etc.)
- Computer use (internet, e-mail, etc.)
- Documentation and record keeping
- Supervision and discipline of student interns
- Lines of reporting
- Use of your private vehicle for transportation related to internship activities
- Use of equipment
- Medical response or other emergencies (earthquake, fire, etc.)
- Requirements for license or permits for the internship activity

Risk Management

- Know applicable laws and regulations
- Behave ethically and professionally.
- **And ask questions of your faculty advisor and field instructor if you have any uncertainties!**

Thank You!

Good luck with your internship activities and future professional career!

Again, details about the state **Student Medical Malpractice Insurance** are available from your faculty advisor or you can obtain information at the [University's risk management website](#).