

Following are examples of incidents that **may not** be considered to be professional liability by the insuring company or **may not** be within the scope of the Indiana Medical Malpractice Act:

- Indiana courts rule the patient injury is not a medical incident.
- The Indiana Patients Compensation Fund is insolvent.
- The Indiana Medical Malpractice Act is declared unconstitutional.
- Incident does not involve patient injury.
- Services provided by a Medical Review Officer.
- Services provided by a Medical Director.
- Contractual hold harmless and indemnification agreements.
- Conflicts with a Directors & Officers Liability policy.
- Claims arising out of privileges and credentials.
- Claims occurring where a state other than Indiana declares jurisdiction.
- The individual physician maintains an out of state residence and/or medical license and treats patients residing in that state in his Indiana offices.
- Patient transportation across state line.
- Out of state activities such as referrals, advertising and prescription services.
- Injuries to a patient where the claimant's attorney alleges it is not a Professional Liability i.e., General Liability policies exclude injuries arising out of patient services.
- Infection of patient resulting from housekeeping.
- Failure to warn a third party regarding the potential harm of a psychiatric patient.
- Malfunction of equipment.
- Hiring of a negligent employee leads to patient injury.
- Conflicts with federal statutes...Federal Tort Act
- Patient Recreational Activity.
- Patient Kidnapping.

One of the potential solutions to some of these challenges is to maintain a \$1,000,000 or more excess contingent professional liability policy that will supplement the primary \$250,000 per claim limit currently maintained in compliance with the Indiana Medical Malpractice Act.