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Your Practice

Medical malpractice insurance tests the mettle of insurance companies

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Everyone knows history repeats itself, and that may be a scary thought for physicians who remember the malpractice crises that have occurred in each of the last 3 decades.

What's ahead? The last 10 years offer significant clues.

During that period, thousands of physicians were left without coverage as well-known carriers such as St. Paul ceased writing med-mal insurance. Others faced the daunting prospect of cases that wouldn't be defended when Frontier, MIIX, PIE Mutual, Reciprocal of America, PHICO, and others failed or were placed under regulatory supervisions. In each case, these physicians faced the very real prospect of paying malpractice judgments from their own pockets.

But the medical liability market is cyclical. As things have begun to improve, carriers have returned and new ones have entered the market with promises of penthouse protection and bargain-basement prices. But experience shows that undercharging in this volatile line of in-

surance very often leaves physicians holding the bag.

Charging inadequate premiums doesn't always mean an immediate failure for a malpractice insurer. Sometimes it's more of a slow spiral into financial problems.

While Wisconsin physicians have been relatively shielded from the perils of the recent medical malpractice litigation crisis due to meaningful reforms and the Injured Patients and Families Compensation Fund, choosing the right carrier remains imperative. There are several aspects physicians should consider.

Financial Strength and Stability

Will your carrier be around for the long haul? One of the dangers of charging cut-rate prices is a lack of adequate funds when it comes time to defend cases or pay losses. Remember that a malpractice case can take as long as 5 years to conclude, unlike other types of insurance where claims are resolved within a matter of weeks. Costs mount during those intervening years, so do your research and select a carrier with a good financial track record. There are several rating agencies such as A.M. Best, Standard & Poor's, and Fitch Ratings who follow medical malpractice carriers and report on their financial strength.

Commitment to Defense

Any carrier will tell you that when

malpractice occurs, cases should be handled equitably and fairly. But what about the frivolous cases? Or cases where a plaintiff's attorney is demanding an astronomical amount to settle a claim with minimal damages? Will your carrier be in your corner, defending you, or will they settle just to make the case go away? Though it may seem more economical in the short-run, it actually costs more in the long-run by encouraging attorneys to bring more suits in hope of a settlement, increasing the costs to you and meaning a report to the National Practitioner Data Bank. Ask your colleagues and well-known medical liability defense attorneys for their experience. That's how you'll separate facts and action from marketing promises.

Physician Involvement/Leadership

The importance of physician leadership and involvement should be obvious: who better to know the struggles you face as a physician in an increasingly "managed" health care environment? Physician involvement can influence risk management strategies, defense strategies, offer tips on trends and practices, etc. PIC WISCONSIN and ProAssurance are fortunate to have physicians as Chair, Medical Director and members of the Board of Directors. And PIC WISCONSIN also hears from your colleagues on a regular basis, using

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many area physicians from a wide range of specialties and regions to advise and consult on sensitive claims and underwriting issues.

**Contact the State
Insurance Department**

To determine if there've been any regulatory actions against the carrier, and to confirm the carrier is licensed to do business in Wisconsin simply contact the state insurance department. In 2003, physicians in 1 state who were insured by Doctors Insurance Reciprocal (a subsidiary of Reciprocal of America) were left scrambling for coverage after the state Insurance Department warned that the carrier was not licensed and had suspended payment of claims.

Though the pendulum is swinging in the medical liability market, as rate increases are moderating, the nature of medical malpractice litigation illustrates an age-old truth: it remains imperative for physicians to choose a carrier with the financial strength and stability, and commitment to defense, that enable it to stand behind a long-term commitment to its insureds.

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