

Notes

MEDICAL MUTUAL
Liability Insurance Society of Maryland

FROM THE CHAIR OF THE BOARD

HEADLINES

2013 Renewal Rates to Remain Unchanged

MEDICAL MUTUAL premium rates will remain unchanged from 2012.

Three “Mega Verdicts” Awarded in Maryland

Within months, Maryland juries awarded three large verdicts to plaintiffs.

Court Reconsidering Personal Injury Law

Court of Appeals considers changes to long-standing state doctrine regarding contributory negligence.

Privacy Breach Coverage Available for Policyholders

*e-data*RESPONSE and *e-data*RESPONSE⁺ can protect you and your practice in the event of a privacy breach.

News Briefs from MEDICAL MUTUAL

Information on our A.M. Best rating, renewal billing, Login Assistance and reapplications.

Expanded Risk Management Education Program Successful

A wide array of topics and presentation options made 2012 one of the strongest years for the MEDICAL MUTUAL risk management education program.

October 2012

Dear MEDICAL MUTUAL Member:

Doctors are always delighted to deliver good news...and I am no exception! I am pleased to report that MEDICAL MUTUAL will not be taking a rate increase in 2013. Moreover, our Board of Directors has declared an 11% renewal dividend for 2013 renewal policies. This means that the amount billed for your renewal policy will remain unchanged next year if you have had no other changes that may affect your price.

And this is not our only good news for Maryland Doctors. MEDICAL MUTUAL's "A-" (Excellent) rating from A.M. Best has been reaffirmed, the response by our Insureds to our 2012 Risk Management education programs has been very strong, and we have successfully introduced a number of convenient new services to our Policyholders.

While today we can celebrate this good news, clouds of uncertainty hang in our future. We continue to experience a reduced volume of litigation against our Doctors, but many analysts are predicting an increase. Across the country, states are experiencing "mega-verdicts" against health care providers. In Maryland, three such verdicts were delivered over the summer with juries awarding amounts of \$55 million, \$21 million and \$20.9 million. At the same time, the Maryland Court of Appeals is considering changing Maryland's long-standing fault standard from contributory negligence to comparative fault. This change, we think, will result in an increase in litigation against Doctors, as well as an increase in litigation costs as the underlying courts will have to establish new judicial rules consistent with this major change in Maryland law.

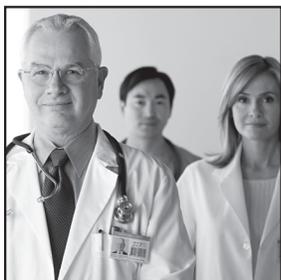
This issue of *Notes from the Chair* newsletter also includes timely information about our new *e-data*RESPONSE and *e-data*RESPONSE⁺ privacy breach response coverages available to our Insureds through our subsidiary, Professionals Advocate. Considering the highly protected nature of the personal information stored by Doctors in electronic and printed form, and the stronger "duty of care" placed on Doctors by HIPAA regulations, we advise you to learn more about how these coverages can help protect your practice.

MEDICAL MUTUAL is grateful for the trust you place in us and we work hard every day to earn that trust. If you have any specific questions about your coverage or 2013 premium, your Insurance Producer or our Customer Service representatives are available to serve you. As always, we welcome your comments and suggestions.

Sincerely,



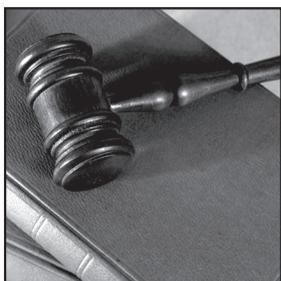
George S. Malouf, Jr., M.D.
Chair of the Board



Premium Rate to Remain Unchanged for 2013

Due to past claims experience and future projected claims experience, MEDICAL MUTUAL will not be taking a rate increase in 2013. In addition, given the company's stable financial position, the Board of Directors has approved an 11% dividend credit for 2013 renewal policies. This matches the 11% renewal dividend credit applied to 2012 renewal policies.

The combination of no rate increase and 11% renewal dividend credit will result in no increase in the amount you are billed for your 2012 renewal policy, as long as you have had no other changes in your coverage or exposure, such as a claims-made step increase, change to your claims-free discount status or other policy coverage change. If you have questions concerning your policy or the dividend, please contact your Insurance Producer or call the MEDICAL MUTUAL Customer Service Department at 410-785-0050 or 800-492-0193.



Trio of "Mega Verdicts" Awarded in Maryland

In the past few months, MEDICAL MUTUAL has observed a number of "mega verdicts" awarded in Maryland. The frequency and size of these awards are cause for some concern, and MEDICAL MUTUAL will continue to monitor the courtroom situation in Maryland for potential issues.

- In a June case against a Maryland obstetrician, a Prince George's County jury awarded \$20.9 million to a couple whose son was born with brachial plexus palsy in 2005.
- Also in June, in a case against Johns Hopkins Hospital, a Baltimore City jury awarded \$55 million to a Baltimore couple whose son was born with cerebral palsy in 2010.
- In an August case against Harbor Hospital, a Baltimore City jury awarded \$21 million to a Glen Burnie couple whose son was born prematurely with cerebral palsy in 2002.



Maryland High Court Considers Change to Personal Injury Law

A challenge to Maryland's long-standing law regarding the assessment of fault in civil lawsuits is currently being considered by the State's highest court, the Court of Appeals. A change in the law could have far-reaching and potentially negative consequences for MEDICAL MUTUAL, as it may greatly increase plaintiffs' chances of a winning verdict in court.

The case involves a 20-year-old assistant soccer coach who jumped up to hang from the metal crossbar of a soccer goal. The goal was unanchored and tipped over, crushing bones in the plaintiff's face. The plaintiff sued the Soccer Association of Columbia (SAC) in Howard County Circuit Court. A jury determined that SAC was at fault for not securing the goal, and that the plaintiff also was partially responsible for the accident due to his actions. As a result, the plaintiff was not awarded damages to cover his medical bills. Under Maryland's current law, plaintiffs who contribute in any way to their own negligence cannot recover damages.

The plaintiff's lawyer appealed the ruling to the Court of Appeals, arguing that the doctrine—known as contributory negligence—is ineffective and unfair. MEDICAL MUTUAL and MedChi joined the Maryland Chamber of Commerce and the Maryland Tort Reform Coalition in opposing the plaintiff's position. Other opposing parties included the American Tort Reform Association, the American Medical Association, the Law Offices of Peter Angelos, and the Mayor and City Council of Baltimore. The briefs submitted in opposition warned that a change in the standard could lead to increased insurance rates and a spike in frivolous lawsuits. MEDICAL MUTUAL will keep our members informed of any further developments in this case.

New *e-data*RESPONSE Provides Essential Privacy Breach Coverage

As the availability of personal medical and financial information on the Internet and in digital form continues to increase, so does the risk that sensitive patient information can be unintentionally exposed. In the event that your practice experiences a privacy breach, no matter the circumstances, you will be held legally responsible for the consequences.

The Professionals Advocate Insurance Company, a wholly-owned subsidiary of MEDICAL MUTUAL, has added *e-data*RESPONSE privacy breach coverage to its existing MedGuard product. *e-data*RESPONSE provides a basic level of privacy breach coverage for a variety of regulatory and liability costs related to the breach of electronic or paper records. If you have already purchased MedGuard from Professionals Advocate, this coverage enhancement is included with no deductible or additional cost to you.

More comprehensive protection from the work and expense of a breach is available with our *e-data*RESPONSE+ standalone privacy breach response coverage. While basic privacy breach coverage provides limited reimbursement for expenses and some assistance in managing the breach, your responsibility for the breach can be considerable. This can include researching the extent of the breach, determining what steps are needed to comply with applicable laws, notifying all relevant individuals, identifying and providing appropriate credit monitoring for the victims of the identity theft, and responding to regulatory and civil proceedings. In the event of a significant breach, the scope and costs of these efforts can quickly exceed the basic coverage. Purchasing the more robust *e-data*RESPONSE+ privacy breach response coverage can provide all these services and more for your practice. For additional information, please contact your Insurance Producer or call the ProAd Customer Service Department at 410-785-0050 or 800-492-0193.

Why is Privacy Breach Response Coverage Important?

- Doctors work in one of the most highly regulated industries. HIPAA regulations require that PII or PHI be handled on a stronger "duty of care" than required by other businesses.
- Identity theft is the fastest growing crime in America. Personal medical data for more than 11 million people were improperly exposed during the past two years.
- The medical profession accounts for nearly 25% of all reported privacy breaches.
- If records are lost, Doctors can face significant government fines and penalties; extensive legal, notification, forensic and credit monitoring expenses; damages and expenses arising from a breach-related civil suit.
- Privacy breach response coverage can provide meaningful protection and reimbursement in the event of a loss of electronic or paper patient records.

MEDICAL MUTUAL News Briefs



Renewal Billing Coming Soon

2013 policy renewal bills will be mailed November 1, 2012. Please remit payment by December 1, 2012 to ensure continued coverage and timely mailing of your Certificates of Insurance.



2012 Reapplications

Reapplications ensure your coverage is accurate and up-to-date. If you received a reapplication this year, thank you for your cooperation in completing it.



A.M. Best Rating Reaffirmed

The A.M. Best Company, the nation's leading independent insurance rating agency, has reaffirmed the financial strength rating of "A-" (Excellent) for MEDICAL MUTUAL.



Login Assistance Feature Introduced

MEDICAL MUTUAL has introduced a new web feature called Login Assistance. Insureds can visit mmlis.com at their convenience and create their own online account and password in minutes.

Risk Management Concludes Successful 2012 Education Program

The 2012 risk management program, *Litigation is a Constant Threat for Doctors*, has successfully concluded. MEDICAL MUTUAL is dedicated to providing our Insureds with the most comprehensive risk management education programs possible. This year featured an exceptionally wide range of topics and methods of presentation. Four new topics were offered on timely and relevant medical issues, such as medical record documentation and anti-coagulation therapy. Our popular "Specialty Specifics" courses were offered with seven different specialties available. Doctors also had the option of attending a new live courtroom drama, "Order in the Court!," which was presented by one of the leading law firms in the state specializing in medical malpractice cases. Finally, we once again offered the popular "Case in Point" home study course, focusing on communication issues. We would like to extend our thanks to those Insureds who participated in any of our programs this year in order to reduce their liability risk. Details on our next education program will be mailed in February 2013.



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- **Risk Management Program Ends on Positive Note**

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