

Notes

MEDICAL MUTUAL
Liability Insurance Society of Maryland

FROM THE CHAIR OF THE BOARD

October 2009

Dear MEDICAL MUTUAL Member:

Whenever we begin to think that today's world is especially unpredictable, we should remember that it was Heraclitus, the Greek philosopher who lived 2,500 years ago, who said that change is the only constant.

In the midst of the changes we face it is reassuring, however, to have a few fundamentals that are steadfast and dependable. Considering that only the most dedicated and hardworking survive the long and arduous process of becoming healers, it is understandable that Patients can count on Doctors to work diligently to meet their needs. And you can count on MEDICAL MUTUAL to meet your professional liability insurance needs. We were created for that sole purpose. MEDICAL MUTUAL will stand by you while you work to get the best possible outcomes for your patients in these uncertain times.

Our strength comes from our long-term commitment. Over the past three decades we have built a strong and stable insurer with a responsible premium structure based on sound actuarial principles. Our mission, to provide a dependable source of quality professional liability coverage for Maryland Doctors, means that everything we do is designed to strengthen our ability to protect your practice today, tomorrow, and for many years to come.

In that vein, I would like to report that A.M. Best has once again awarded us an "A-" (Excellent) rating because of our sound financials. Our long-term conservative approach to business, including our investment strategy, has held the company in good stead through very volatile times. While many companies were losing millions of dollars in the falling market, MEDICAL MUTUAL not only preserved its assets, we continued to generate positive investment earnings.

I am pleased to announce that because of our financial position, we are able to continue another year with no rate increase. We recently received approval from the Maryland Insurance Administration to include no rate increase on our 2010 premiums. In addition, our Board of Directors has declared an 11% dividend to 2010 renewal policies that will keep your price flat if you have had no changes in your coverage or exposure. This is the fifth consecutive year that MEDICAL MUTUAL Insureds have had no price increases on what they pay for professional liability insurance. There are certainly difficult issues on the horizon, but this is good news at a time I am sure you can use it.

(Continued on next page)

HEADLINES

2010 Premium Rates to Remain Unchanged

2010 MEDICAL MUTUAL premium rates will remain unchanged from 2009.

Damages Cap Update

Controversial ruling to be reviewed before the Maryland Court of Appeals.

Disclosure BASICS Program Introduced

New risk management program for early intervention in the event of an unanticipated outcome.

"What Patients Want?" Now Available

Doctors RX focuses on recent court ruling that affects doctrine of informed consent in Maryland.

"A-" (Excellent) Rating Reaffirmed by A.M. Best

A.M. Best has once again issued an "A-" (Excellent) rating for MEDICAL MUTUAL.

"Red Flags" Reminder

The FTC will be enforcing the "Red Flags" Rule. Make sure you are following the new guidelines.

Fliers Answer Common Policy Questions

Info fliers designed to answer common coverage questions are available for Insureds.

Letter from the Chair of the Board

(continued)

This issue of the *Notes from the Chair* newsletter also includes an informative article on our new “Disclosure BASICS” program, an update on an important court case, some reminders on key risk management topics, and more.

As always, we welcome your comments and suggestions. We are truly grateful for your loyalty and appreciate the opportunity you give MEDICAL MUTUAL to serve you.

Sincerely,



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

2010 Premium Rates Will Remain Unchanged

The MEDICAL MUTUAL Board of Directors has approved an 11% renewal dividend for 2010. In addition, we received approval from the Maryland Insurance Commissioner to include no rate increase for the coming year. Absent other changes that may affect your price (such as a claims-made step increase, change to your claims-free discount status or other policy coverage changes), the combination of these two actions should result in no material increase in the amount you pay for the coming year over what you have paid in 2009. (*This does not include the unique special dividend of 20% provided in the second quarter of 2009. That was a singular event offered separate from, and in addition to, the 2010 11% renewal dividend.) 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.

Damages Cap Case Appeal Set for November

The Maryland Court of Appeals has granted certiorari, allowing an important case for Maryland Doctors to be heard by the Court of Appeals, and bypassing the Maryland Court of Special Appeals. The Doctor in the underlying case is our Insured and details of the case were included in the July 2009 issue of the *Notes from the Chair* newsletter. At a hearing scheduled on November 5, the court will listen to arguments on whether a Montgomery County Circuit Court erred in holding that Maryland’s longstanding cap on non-economic damages does not apply in cases that are not arbitrated in the Health Care Alternative Dispute Resolutions Office (HCADRO).

MedChi filed an amicus (“friend of the court”) brief on behalf of all Doctors to support reversing the lower court decision, as did the Maryland Hospital Association, the Maryland Defense Counsel, and other interested parties. The MedChi asserts the Circuit Court decision is “manifestly contrary to legislative intent and sound principles of statutory interpretation.” The Maryland Hospital Association asserted that the ruling will “jeopardize the future access to quality health care for Maryland citizens.”

Because premium rates are a function of the cost of litigation, the loss of the cap could have a detrimental impact on malpractice insurance premium rates. The appeal is being vigorously pursued and we will keep our members informed of all developments.

STAT-PAT Program Successful; Introducing Disclosure BASICS

In 2005, an innovative risk management pilot program was introduced for early intervention in the event of an unexpected outcome with a patient. This program, called STAT-PAT, was created to work in concert with the “I’m Sorry” legislation passed that year by the Maryland General Assembly. As a pilot program, it was only provided to a select group of Physician Insureds.

MEDICAL MUTUAL has been very pleased by the reception and support STAT-PAT received from the Physicians in the program. Based on the considerable information gained from this pilot effort, MEDICAL MUTUAL has decided to incorporate a disclosure educational program into its risk management activities. The educational aspects of STAT-PAT, which proved in the pilot to be most beneficial to Doctors, will be expanded and made available to all MEDICAL MUTUAL Physicians. This will include the educational, coaching and Physician support aspects, which won much praise from the Doctors in the pilot. The patient compensation component, a STAT-PAT feature that was not as successful as anticipated, will not be a part of the new program.

The new disclosure program is called Disclosure BASICS. This program is available at no charge through our web site, www.weinsuredocs.com. Select MEDICAL MUTUAL, log in to the secure area, and choose the “Risk Management Resources” option. If you haven’t already obtained your User ID and temporary password, enabling you to access the secure Policyholder area of the web site, please call our Customer Service Department during normal business hours at 410-785-0050 or 800-492-0193.

Latest *Doctors RX* Addresses Recent Informed Consent Ruling in Maryland

Recently, you received a special issue of the *Doctors RX* newsletter titled “What Patients Want?” Please take a few minutes to review this issue, as it provides important information on a recent ruling by the Maryland Court of Appeals that has broadened the state’s informed consent doctrine. The Court has removed the requirement that a physical invasion of the patient is necessary in order to sustain an informed consent claim. Additionally, the revised doctrine has placed greater emphasis on patients’ personal autonomy and their ability to make treatment choices for themselves, based on information and advice provided by the Physician. A digital version (PDF format) of this newsletter is available on our web site at www.weinsuredocs.com.

“A-” (Excellent) Rating Reaffirmed by A.M. Best

For the 14th consecutive year, MEDICAL MUTUAL has been rated “A-”(Excellent) by the A.M. Best Company, the nation’s leading independent insurance rating agency. This rating is given to companies that have an excellent ability to meet their ongoing obligations to their Policyholders. In its review of MEDICAL MUTUAL, the A.M. Best Company noted that “The A.M. Best rating and corresponding outlook [Stable] is based on a sound financial position and operating fundamentals.” You can be confident that MEDICAL MUTUAL has the financial integrity and stability required for the long-term protection of Maryland Physicians.

Reminder on “Red Flags” Compliance

The Federal Trade Commission (FTC) will begin enforcement of a new Identity Theft Prevention Policy, also known as the “Red Flags” Rule. This new policy requires health care practices to recognize the warning signs of identity theft through patterns, practices and specific activities. More importantly, it requires those practices to develop and implement written identity theft prevention programs. It is essential that Physicians follow the guidelines of this new regulation, as the FTC has established civil monetary sanctions of \$2,500 for each incidence of non-compliance. For more information on the “Red Flags” Rule, including what you need to know about compliance and how to create and implement a medical theft protection program, please review the Special Edition of *Doctors RX* on our web site at www.weinsuredocs.com.

Info Fliers Answer Common Questions About Policy Coverage

The language of the professional liability insurance industry can be confusing. However, it is important that all MEDICAL MUTUAL Insureds have read and fully comprehend the coverage defined in their policy. To help Insureds understand certain aspects of their coverage, MEDICAL MUTUAL has developed a series of informational FAQ brochures designed to aid Policyholders by clarifying some of the more confusing portions of their coverage.

Currently available are fliers on “Claims-Made Step Coverage” and “Tail Coverage.” These fliers can be accessed by visiting us on the web at www.weinsuredocs.com or by calling the Customer Service Department at 410-785-0050 or 800-492-0193.



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