

The Perfect Storm:

The Current Medical Malpractice Crisis

Editor's Note: The malpractice crisis may be on the verge of hitting your state in the near future.

Join your state and county medical association to assist in avoiding the storm.

What's worse than seeing your professional liability insurance rates increase by 50 percent? Receiving a nonrenewal notice despite having a clean malpractice record. What's worse than being nonrenewed despite a clean record? Seeing your professional liability insurance carrier become insolvent and realizing that you are, in essence, bare.

If all this sounds too scary to be true, it's not. The above scenario is happening all over the country.

What is causing this third malpractice crisis to hit the country since 1975?

According to Cliff Rapp, Vice President of Risk Management at FPIC, the following scenarios have converged at once to provide "the perfect storm":

- Erosion in patient loyalty attributed to the increasing presence of managed care
- Seeing more patients and spending less time with each patient has severely decreased communication between patient and physician – in fact, 82% of the motivating factors behind claims are attributed to communication failures
- As a result of managed care, there has been a shift from cases tried for committed acts to a world where omitted acts are equally important – in fact, failure to diagnose cancer has become a leading cause of malpractice claims
- There are more lawyers today than ever before
- Jury panel selection criteria has changed – a potential juror now only needs to be 18 years of age and have a driver's license
- Shows such as "Who Wants to be a Millionaire" have lessened the aura of a million dollars
- In tandem with increased federal and state regulatory and statutory causes of action, the average malpractice settlement in Florida has increased dramatically

- Jury verdicts are the yardstick by which all cases for settlement are measured and the average jury verdict has increased 57% in the last five years nationally, from \$2 million to \$3.5 million

In fact, rates have been artificially low for so long that in just the past five years most carriers have seen their combined ratios climb over 130 percent, and some have even risen to levels above 140 and 150 percent, which means for every dollar a company takes in, they are spending anywhere between \$1.30 to a \$1.50. All this in an industry that has historically enjoyed combined ratios in the 90 percent range. FPIC has an average combined ratio over the last five years under 100 percent.

So, with all this bleak news, what's a physician to do?

For one thing, joining organized medicine could assist in lobbying the government for tort reform. FPIC, along with State and County Medical Societies, and specialty societies have been doing just that for the past several years, and will continue to do so until we are able to get runaway jury awards under control, thereby lowering your malpractice premiums.

Another important thing to do is become insured with a stable carrier that will be with you during the good times and the bad. FPIC has been in continuous operation since 1975. As David Rader, President and CEO of FPIC says, "When we say 'Here Today, Here Tomorrow' we mean it."

In addition to stability, you want a carrier who will fight for you in the courtroom and defend you against frivolous lawsuits. At FPIC, 85% of all cases are settled with no indemnity payment and 80% of all cases taken to trial are won. In the past two years alone, FPIC is 67-10-3 (87%) in the courtroom, far and away the leader in taking cases to court in Florida.

FPIC Welcomes

Carol Lanfri - Carol Lanfri joined the staff of FPIC in the position of Senior Legal Counsel and Assistant Secretary. She is responsible for defending FPIC insureds in licensure disciplinary actions before the healthcare licensing boards such as the Board of Medicine and Board of Dentistry. Additionally she represents licensees before the Division of Administrative Hearings.

Before joining the staff of FPIC, Ms. Lanfri worked at the Agency for Health Care Administration prosecuting licensees for the Board of Medicine and Board of Osteopathic Medicine. She was also the AHCA representative to the Osteopathic Board for two years.

Since moving to Jacksonville, Ms. Lanfri and her husband have enjoyed exploring the area, as well as participating in water sports.

Mrs. Lanfri can be reached at 800-741-3742, ext. 3295.

Don Withers - Don Withers came to FPIC in August of this year. Prior to that Mr. Withers, a CPA, operated his own consulting and accounting firm for eight years and one of his clients was FPIC. Previously he worked at one of the "Big 5" accounting firms.

Mr. Withers will work as an internal auditor regarding FPIC's arrangements with MGIS, APIE, and PMA. He will also monitor the reinsurance and program business functions, insuring that information and funds are transferred to and received from our partners according to our contracts.

In his spare time, Mr. Withers enjoys golf, model trains and collecting Hess type trucks.

Feel free to contact Mr. Withers at 800-741-3742, ext. 3054.

Randolph Collette - The position of Senior Attorney has recently been filled by Randolph Collette. He will be working in the legal department preparing responses to disciplinary investigations.

For the past 11 years Mr. Collette was Senior Attorney for the Agency for Health Care Administration in Tallahassee, Florida. Prior to that he was an officer in the United States Air force, serving as a navigator, wing operations scheduler, squadron commander and Judge Advocate.

When time and energy permits, Mr. Collette enjoys woodworking and stained glass projects.

The phone number for Mr. Collette is 800-741-3742, ext. 3290.

Marc A. Calixte - Marc A. Calixte joins the FPIC family as Assistant Vice President of Underwriting and will be working closely with Jeannie Whitter, Vice President of Underwriting. Previously Mr. Calixte worked as an underwriter and Market Manager of Florida for GE Medical Protective Company. He holds a Bachelor's of Arts in Accounting and a Master's in Accountancy both from Manchester College in North Manchester, IN.

Mr. Calixte is an avid sports fan. While living in Indiana he coached high school soccer and is currently searching for a soccer team to play on in the Jacksonville area. Mr. Calixte also enjoys golf, but would rather not comment on his handicap. When not participating in sports he likes to watch the Fighting Irish of Notre Dame play football.

Feel free to contact Mr. Calixte at 800-741-3742, ext. 3299.

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Finally, you want to be insured with a carrier who will assist you in protecting yourself from ever receiving a notice of intent in the first place. FPIC prides itself in its *Partners in Prevention Program*, whereby a highly trained and specialized risk manager will provide free office surveys. The *Program* also has more than 35 specialized risk management programs that can be targeted to a specific specialty, geographic region, or large group or IPA.

FPIC exists to provide physicians with the most comprehensive professional liability insurance coverage and the most protection, both inside and outside the courtroom. FPIC: Here Today, Here Tomorrow.

For more information on the pending malpractice storm, or to find a port of shelter, please contact Gary Izzo, Vice President of Marketing at FPIC, at 800-741-3742, ext. 3056.

New Members Elected to the Board of Directors

At the FPIC Insurance Group's Annual Shareholders Meeting in June, two new members were elected to the Board of Directors. John K. Anderson, Jr., and M.C. Harden, III, will each serve three-year terms. Gene C. Witherspoon was appointed to the Board of Directors in July.

"The election of Anderson and Harden to our Board is a major step forward in our goal of adding additional areas of expertise on our Board," said John H. Byers, President and Chief Executive Officer of the holding company.

Mr. Anderson currently serves as Executive Vice President, Treasurer, and Chief Financial Officer of American Heritage Life Investment Company, a life insurance company headquartered in Jacksonville, Florida. Prior to joining American Heritage, Mr. Anderson was the Chief Executive Officer of E. G. Baldwin & Associates, Inc., a regional distributor of medical imaging products and services to hospitals and other medical providers, located in Cleveland, Ohio. Mr. Anderson is also a member of the Board of Directors of Baptist Medical Center in Jacksonville, Florida.

Mr. Harden is Chairman of the Board and President of Harden & Associates, Inc., an insurance broker, and risk management and employee benefits consultant in Jacksonville, Florida. Mr. Harden is also a member of the Baptist Medical Center Board of Directors.

Mr. Byers also stated, "These two individuals have significant experience in the insurance industry and other areas that will add value to our Board and our organization."

Mr. Witherspoon is the President and Chief Operating Officer, and a Director of Anesthesiologists Professional Assurance Company (APAC), a wholly owned subsidiary of FIG, which specializes in providing professional liability insurance to anesthesiologists. Mr. Witherspoon has previously served as an Assistant Director of Insurance Company Regulation with the Florida Department of Insurance.

Robert O. Baratta, MD, chairman of the Board, commented: "We welcome Gene to our Board. He has been an important part of our management team since 1998 and we look forward to the contributions he will make to our entire organization by serving on our Board."

The new directors filled vacancies left by the retirement of Frank Moya, MD, D. L. Van Eldik, MD, and Henry M. Yonge, MD, from the Board of Directors. FPIC would like to thank the retiring directors for their dedication and service to the Company.

On the Lighter Side

We were all reminded recently of the sage advice that FPIC's Vice President of Claims has given out over the last few years. Ray Carey used to coach little league baseball. One of his kids was a young man who used to show up for games tired and listless. When Coach Carey tried to determine the cause of the young man's lack of enthusiasm, he learned that the boy's father had insisted that the child play 18 holes of golf before going out to play baseball. Coach Carey told the kid, "Concentrate on baseball - you'll never amount to anything in golf." It's a good thing "the kid" didn't pay a lot of attention to Coach Carey, as "the kid," David Duval, won the British Open, golf's most prestigious Major Tournament in July.

Premises Liability Coverage

For many years, FPIC has offered to physicians on their medical malpractice policy the option to include premises liability coverage. This basic coverage would allow protection for the slips and falls of the patients and guests entering the physician's office. Unfortunately, that coverage in all probability duplicates coverage with a physicians' business office package policy. Therefore, FPIC will no longer offer premises liability coverage as an option to the medical malpractice policy. This change will commence with all new and renewal policies effective December 1, 2001 and after. If you have any questions regarding this policy change contact Policyholder Services at 800-741-3742, ext. 3217.

Georgia Policy Amended to Offer Free Tail

FPIC has filed the appropriate paperwork with the Georgia Department of Insurance to amend the tail clause on policies. The amendment will offer free tail for the following reasons if the physician retires with coverage from FPIC.

- Full retirement at any age and have been continuously insured by FPIC for the last five years.
- Full retirement between the ages of 55-59, continuously insured by FPIC for the last three years, and have been loss-free for the last five years.
- Full retirement at age 60 or older, continuously insured by FPIC for the last two years, and have been loss-free for the last five years.

The changes to the policy will be effective at renewal and apply to all physicians. The effective date was July 1, 2001. A detailed copy of the changes to the policy can be obtaining by calling Policyholder Services at 800-741-3742, ext. 3217.

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