

Make plans now to attend the 2007 Florida Medical Association CME cruise. See page two for more details.

First Professionals Insurance Company Files for 8 Percent Base Rate Decrease

Florida doctors begin to reap the benefits of Amendment 3

When you are in any contest, you should work as if there were - to the very last minute - a chance to lose it. This is battle, this is politics, this is anything.

~ Dwight D. Eisenhower

While General Eisenhower did not lead the battle for tort reform in Florida's



President Robert E. White, Jr.
First Professionals Insurance
Company

medical malpractice war, First Professionals Insurance Company (First Professionals) salutes the state's physicians who did work 'to the very last minute,' which resulted ultimately in terrific success. It was a costly, hard-fought triumph, and on November 4, 2004, when Florida voters overwhelmingly passed Amendment 3, a new era began for Florida's physicians and their patients.

"Because of Amendment 3, we are now able to reduce our base rate to most Florida policyholders by 8 percent," First Professionals President Robert E. White, Jr. recently stated. "Amendment 3 is the reason we are in a position to reduce rates and provide some relief from the medical liability crisis."

Briefing

The 2003 legislation froze professional liability insurance rates at July 1, 2003, levels. It also mandated that an impartial study be conducted annually, and the Office of Insurance Regulation (OIR) hired Deloitte Consulting LLP (Deloitte) to conduct the initial study. That report was submitted to the OIR in October 2004.

A significant conclusion from that study was that the caps set by the 2003 tort

reform legislation would have little impact for Florida's physicians because of the low policy limits most physicians carry. Only 15 percent of First Professionals' policyholders carry policy limits higher than \$500,000. Among First Professionals' policyholders, 65 percent carry \$250,000 limits; another 20 percent carry \$500,000 limits.

Deloitte's report stated, "As policy limits drop, the savings insurance companies can pass on to insurance consumers decreases. For policy limits purchased under \$500,000, there is little or no benefit to pass on to insurance consumers at all."

The other side thought they had won the war when that legislation was passed; however, the leaders of organized medicine groups around the state recognized "before the ink was dry on the governor's signature" that the bill was not enough. These groups understood that Florida insurers pay indemnity losses more often than insurers in other states, and nothing in the tort reform legislation addressed that fact.

Soldier's Battle

The state of Florida demonstrated once again that it was unwilling to truly address the malpractice problems physicians faced, despite the tireless efforts of the governor, the Florida House of Representatives and a few senators. The response of the FMA House of Delegates in September 2003, just a few short weeks after the legislation was enacted, was to vote unanimously to pursue the passage of Amendment 3.

The paradox of tort reform is that the year during which the legislation passes is usually worse than insurance companies anticipated because lawyers race to file cases under the old law.

continued from page 1...

The subsequent year will generally have lower claims frequency as attorneys are overloaded from the acceleration of cases to beat the deadline when tort reform takes effect and the fact that they have to take time to learn the new laws before they can file cases under them. Those two factors create a lull in claims that typically lasts 18-24 months, after which claims typically return to pre-tort reform levels.

Florida is now three years out from the passage of tort reform, and claims frequency remains at a level that is lower than what it was prior to the passage of tort reform. The single variable responsible for this – the only thing that changed since the tort reform legislation was enacted – is the passage of Amendment 3 in November 2004, which limits attorneys' contingency fees.

D-Day

The 2003 tort reform legislation required insurers to file new rates that reflected the expected savings from tort reform called the "presumed factor." The presumed factor is based on loss costs, not premium, and Deloitte calculated it to be 7.8 percent. Essentially that means were it not for the savings from the legislation, the premium would have been 7.8 percent higher. Premium savings will vary from company to company depending on the mix of an insurer's book of business.

Tort reform has been reflected every year in First Professionals' rates since 2003. Since then the presumed factor has decreased First Professionals' policyholders' premiums each year: 5.7 percent (March 1, 2004), 5.1 percent (March 1, 2005), and 4.8 percent (January 1, 2006).

First Professionals uses a 10-year loss experience to set rates, because one good (i.e., loss-free) year may not be representative of the true loss experience since it is a small fraction of a doctor's experience. Now, post tort reform with three full years of decreasing loss experience, First Professionals considers this to be a true reflection of its book of business and its premiums will adjust in response.

Campaign Success

This is all good news for First Professionals' policyholders and for Florida physicians. The rewards of the \$7.5 million investment by organized medicine and its members are beginning to surface. As long as this loss trend continues, physicians should continue to see rate decreases in professional liability insurance.



White announced recently that effective December 1, 2006, most Florida physicians insured by First Professionals will see an 8 percent decrease in premiums. However, about 900 physicians in particular specialties will see larger decreases ranging from 14.2 percent to 19.5 percent because of changes in their specialty relativities. Based on 2005 written premiums, if every insurer in Florida made a similar rate adjustment, Florida physicians would save \$50 million per year.

Like the leadership of organized medicine groups in Florida, First Professionals recognizes that the cap on non-economic damages and bad faith reform will face a constitutional challenge in the future. Florida doctors can rest easy knowing that their leaders and First Professionals remain vigilant to the unique malpractice situation in Florida, and are armed for battle when necessary.

2007 Florida Medical Association CME cruise

FMA experts will teach you the business of medicine so you can get back to the practice of medicine. This year's series of courses is designed to give physicians and medical office staff the knowledge they need to run a healthy and compliant medical practice that is responsive to the needs of patients.

First Professionals Insurance Company is scheduled to participate. President Bob White plans to attend, and Vice President of Risk Management Cliff Rapp is a scheduled speaker.

Limited space is available - so book early! Call (727) 526-1571 to reserve your cabin. Go online for additional details.

www.fmaonline.org/education/cruise07.asp

The Anatomy of a Case

Editor's Note: This illustrates an actual case that First Professionals defended in the courtroom. Our ongoing commitment is to strong defense for our policyholders.

Case Facts

This case involved the alleged wrongful death of a 68-year-old married female. She had had intermittent health care with other providers, but established herself with our insureds in June of 2001. She had complaints of arm and shoulder pain, which was felt to be due to osteoarthritis that was confirmed on x-ray. The patient also was found to have hypothyroidism and cholesterol in the 300s.

Our insureds felt that they needed to normalize the thyroid before addressing the cholesterol as there is an association of unduly elevated cholesterol readings with hypothyroidism. She was placed on Celebrex for the arthritis (acceptable in 2001) and Synthroid, and worked up for osteoporosis. She was seen for a well woman visit and had a mammography done.

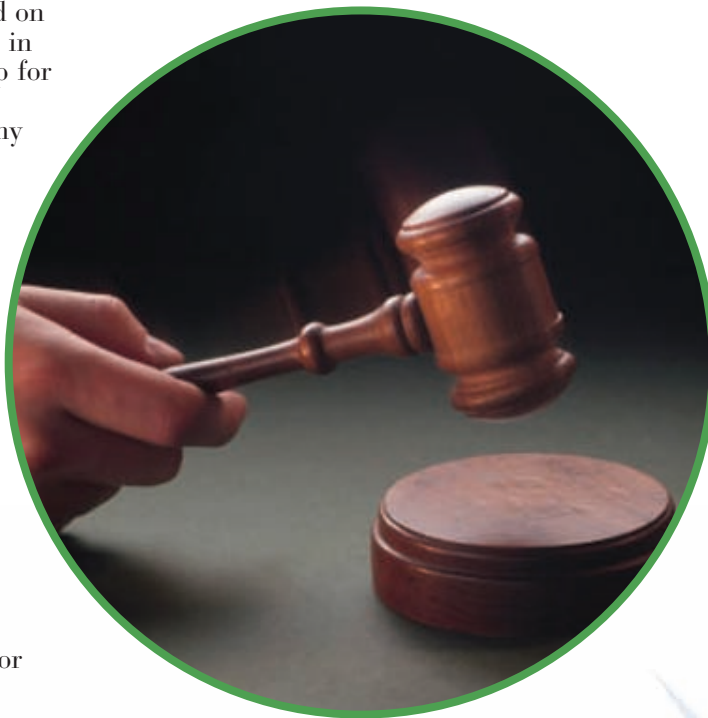
In December of 2001 she presented to our insureds' office with shoulder and arm pain of a new and different character and reported being short of breath for the past five days. An EKG done in the office was interpreted as showing a questionable block and CHF of new onset. Our insured admitted the patient directly to the coronary care unit with admission orders of IV Lasix, cardiology consult, 12-lead EKG, echocardiogram, and blood work. Upon arrival the patient appeared stable and her husband went home for the evening.

Approximately one-half hour after admission the patient complained of chest and arm pain and vomited. No physician was notified. By two hours after admission her blood pressure dropped and oxygen saturation fell, and she required intubation by the emergency room physician. Our insureds were called and went right in, and saw the patient was going into cardiogenic shock following an acute MI. She was seen by the cardiologist and transfer was arranged to a regional hospital where the patient expired.

First Professionals' Response

The hospital was not named in the suit. Allegations against our insureds consisted of criticism for not having a baseline EKG, not doing a cardiac work up for arm and shoulder pain, not treating her elevated cholesterol and for admitting her with cardiac problems to a hospital that couldn't do a cardiac cath or cardiac intervention. The trial lasted four days and resulted in a defense verdict after 45 minutes of deliberation from an all-male jury.

The care provided by our physicians was found to be within the standard of care and not causally related to the patient's death.



Letters from Policyholders

Mr. Fred Scheriff, Vice President, Claims
Ms. Mary Jo Davi, Claims Supervisor
First Professionals Insurance Company
600 N. Pine Island Road, Suite 250
Plantation, Florida 33324

Dear Ms. Davi and Mr. Scheriff,

I want to thank you for allowing me to use Ms. Lucie McAllister as my Attorney in the trial of Patient M. that successfully concluded in May.

As you know, I was very stressed and really did not want this suit to take place. It was my confidence in Ms. McAllister and her associate Kamlesh Oza and their preparation, professionalism and confidence that brought me through this trial and encouraged me to continue.

I very much appreciate Mary Jo being at the trial each day and her continued support.

I would highly recommend Ms. McAllister and Mr. Oza to any of your insured physicians who find themselves in a similar situation.

Sincerely yours,

Dr. L
South Florida

P.O. Box 44033 Jacksonville, FL 32231-4033
800-741-3742 • www.firstprofessionals.com

First Professionals Insurance Company



PRESRT STD
U.S. POSTAGE
PAID
Permit No. 1729
Jacksonville, FL