

Inside This Issue:

- ▶ **Case Anatomy**
- ▶ **Understanding Deductibles**

The Pre-Suit Life of a Claim

Policyholders with First Professionals Insurance Company (First Professionals) can feel secure knowing that we “have their backs.” Our claims management staff collectively has more than 460 years of claims experience in Florida. For our policyholders in Florida that means we understand the geographic nuances of this state, and we know the attorneys and judges around the state. For our policyholders outside of Florida that means our staff has solid experience on which to base their decision-making in other states. We understand the knowledge and skills needed from the defense attorneys we secure to assure they meet our company’s high standards for quality.

This article will provide you with information about the pre-suit process. Some of the specifics are particular to Florida and its laws, but the principles and practices are essentially the same anywhere. Rest assured that our claims staff will work within the parameters of the law in your specific state.

What is Pre-Suit?

During pre-suit a doctor is made aware of a possible claim. Sometimes it is because he or she is aware of an adverse incident. Other times it is due to receipt of a Notice of Intent (NOI) to initiate litigation (in Florida) or other legal notice of a claim (outside Florida). The NOI is delivered via certified mail with signature required for receipt.

Timing is everything so it is critical that the doctor or doctor’s office notify our claims department as soon as you receive any kind of notice of a potential claim. That may be something as seemingly benign as a request from a patient’s attorney for medical records or a request for information about the doctor’s professional liability insurance. Presume

the worst and pick up the phone to call our offices. “Send it to us the minute you get it,” says Judy Karasick, regional claims manager with First Professionals in our Plantation, Florida, office.

There is usually a deadline for responding to these notifications, and in Florida it is 90 days upon receipt of an NOI. One of our expert claims handlers will be assigned to your case and will begin immediately to investigate the claim.



Pre-Suit Investigation

We will obtain copies of the medical records and request damage information. Our claims handler will interview the doctor in order to get as much background information as possible about the patient, about other treaters on the case, etc. Along with the claims handler, the doctor will review the medical record with an objective eye. During that review, the doctor will want to think about

this question: If you could do it again, would you do the same thing?

We send the records to one of our experts, most often a physician in the same specialty as our insured doctor. The expert reviews the files and if s/he finds everything to be appropriate, signs an affidavit and we then deny the claim.

If our expert believes the case is questionable, our claims staff will either seek a second expert’s opinion, or will begin to work up “causation and damages.” For a claim to be justified there must be liability and there must be causation and damages. For example, if a doctor missed a tumor on an x-ray, did that cause the patient’s damages?

Fortunately, the great majority of claims end once they are denied; however, the patient has two years from the date of death or from the date the patient knew or should have known there was negligence, in which to file suit.

Continued on page 2...

Continued from page 1...

Do Not Do List

As stated earlier in this article, it is critical that the doctor (or doctor's office) notify our claims department as soon as s/he signs for receipt of the NOI or other notice of claim. Equally important is that from this point the doctor does not talk with anyone other than First Professionals' staff members or the attorney assigned to the case by our company.

If you receive a call or letter, or a request to give a deposition, contact us immediately. Do not participate or respond without consulting our claims department staff. Sometimes a hospital risk manager may contact a doctor to participate in an investigation of an adverse incident.

Contact us first. We may recommend that you should have an attorney, and we will provide one for you – at no additional cost. It's all part of your coverage with First Professionals.

Count on our Claims Experts

You have entrusted your medical professional liability protection to us and we hold your trust and our resulting obligation in high regard. If ever you have a question in your mind about a possible claim, please further extend your trust to us with a phone call to our claims staff. We are just a phone call away says Karasick who reiterates an old adage, "It's better to be safe than sorry." Please refer to the sidebar for information on which office to call depending on your geographic area. If you have other questions, please feel free to contact Senior Vice President of Claims Beth Rominger at (800) 741-3742, ext. 3306. ■

Notify a First Professional's Claims Representative if you receive Legal Notice of a Claim or Pending Litigation

By Florida statute, Florida policyholders will receive a Notice of Intent to Initiate Litigation (NOI), a patient's notification of their intent to sue you. If you receive a NOI (Florida policyholders) or other legal notice of a claim (policyholders outside of Florida) please contact a First Professionals' claims representative **immediately**.

Policyholders in South Florida (Martin, St. Lucie, Okeechobee, Palm Beach, Broward, Dade, Monroe or Collier counties) should contact Sue Harbin in our Plantation office.

600 N. Pine Island Rd., Suite 250
Plantation, FL 33324
Phone: (866) 760-2121, ext. 15
Fax: (954) 577-2725

Policyholders elsewhere in Florida or in any other state should contact Cheri Montague at First Professionals' headquarters in Jacksonville.

1000 Riverside Ave., Suite 800
Jacksonville, FL 32204
Phone: (800) 741-3742 ext. 3043
Fax: (904) 358-6728

Understanding First Professionals' Policy Deductibles

Deductibles at First Professionals Insurance Company apply on a **per claim basis**. In particular for groups/clinics this can seem complicated, but it is important to remember that just because there is only one patient involved does not mean it is only one claim.

Often two or three doctors in a group will treat the patient. It is likely that those doctors as well as the corporation (the clinic) will each be named in any claim filed by the patient.

Because each doctor and the clinic are protected by the limits of liability available by the policy, each is also responsible for the deductible amount. **Even when the claim involves only one patient.** Policy limits are available to each doctor on the policy; therefore, deductibles are handled the same way. Every doctor on the policy also receives legal defense provided by First Professionals, at no additional cost. The First Professionals' policy protects every doctor in the clinic.



For Example

Our fictitious policyholder, ABC Clinic, is a group of 10 doctors. As part of its risk management effort the clinic elects to carry deductibles of \$50,000, which result in significant premium discounts on the policy.

In our example, underwriting has agreed to an aggregate deductible of three times the deductible, of \$150,000. That decision is made on a case-by-base basis, and is based on factors such as the size of the group and loss ratio. It is solely an underwriting decision. With an aggregate deductible, if the policyholder (the clinic) meets that aggregate, no additional deductibles will be paid during the remainder of the policy period.

Patient Jane Doe was treated by Doctor #1, Doctor #2 and Doctor #8, all part of ABC Clinic. Subsequently Patient Jane Doe files a claim that names each of the three doctors as well as ABC Clinic. In time

Continued on page 3...

Anatomy of a Case

Editor's Note: This illustrates an actual First Professionals' case in which we reached resolution through mediation.

Case Facts

A 56-year-old male presented in the emergency room complaining of recent onset abdominal pain. Patient's family practitioner (our insured) of several years came in, evaluated the patient and ordered an upper GI series and a HIDA scan. The results of those tests showed the patient was suffering from an obstruction of the cystic duct with gallbladder disease, and the upper GI series showed an anterior ulcer at the duodenal bulb. Results were sent to the family practitioner's office.

The patient was discharged from the hospital on the same day, with instructions to follow up with a surgeon for further evaluation and probable cholecystectomy. The surgeon's office received the HIDA scan results, which confirmed the cystic duct obstruction; however, he did not receive the upper GI series results, which suggested an ulcer of the duodenal bulb.

Two days later the surgeon took the patient to surgery for a laparoscopic cholecystectomy. Postoperatively, within two days, the patient had significant changes in his vital signs, and re-exploration was done that found, and repaired, a perforated bleeding ulcer of the duodenal bulb. The patient's hospital course was stormy; he was ventilated and hospitalized for more than two months.



Hospital bills totaled more than \$280,000.

Suit was filed against the family practitioner for failure to relay the upper GI series results to the surgeon. The surgeon was also named for failure to review the prior hospital chart, which would have shown the results of the upper GI series, and for placing clips in the area of the duodenal bulb where the perforation and ulcers occurred.

First Professionals Response

The initial demand was \$800,000 collectively to both insureds. As a result of mediation, the case was settled for \$140,000 total. Of that, \$95,000 was attributed to the family practitioner for failure to relay the results of the upper GI series, and \$45,000 was attributed to the surgeon for failure to review the lab results

and diagnostic studies from the prior hospitalization, and for not recognizing the duodenal bulb ulcer at the time of his laparoscopic procedure. ■

Continued from page 2...

Doctor #8 is dismissed from the claim.

If an indemnity payment is eventually made on behalf of Doctor #1, Doctor #2 and ABC Clinic, each will owe \$50,000 – the deductible amount. Additional indemnity above \$50,000 would be paid by First Professionals, for each doctor and the clinic, up to the policy limits.

In this instance the three deductibles paid by the policyholders would satisfy the aggregate deductible of \$150,000. For the rest of that policy period any doctors on the ABC Clinic policy would not pay a deductible.

Solo Policy

First Professionals' policies for solo practitioners function in essentially the same manner—the deductible is applied to each claim. Deductible amounts are generally lower, and aggregate deductibles are not available.

Letter of Credit

A letter of credit is required for any policy – group or solo – with a deductible of \$50,000 or more. The policyholder's bank or any financial institution can provide a letter of credit.

We offer our insureds the option of "Indemnity Only" deductibles or "Indemnity and Expense" deductibles. The latter means that allocated loss adjustment expenses are part of the deductible.

If you have any questions or need additional information, please feel free to contact our Underwriting Department at (800) 741-3742. Direct your inquiry to:

Laura Archer, Vice President of Underwriting

Ext. 3087

archer@fpic.com

Christian Groux, Underwriting Supervisor

Ext. 3090

christian.groux@fpic.com ■

Letters from Policyholders

Mr. Fred Scheriff
Vice President of Claims
First Professionals Insurance Company
600 N. Pine Island Rd., Suite 250
Plantation, FL 33324

Dear Mr. Scheriff:

It is with mixed emotions that I write you this letter. Hopefully, I will never be in a position to write such a letter again. I am writing you to tell you of my overwhelming praise and admiration for my counsel, Ilisa Hoffman, Esq. Needless to say, I had some trepidation when she took over my representation several weeks ago. However, after seeing her drive, skill and determination over these last two weeks in acting as my determined advocate, I can only thank FPIC for providing me with such effective representation. Ms. Hoffman is truly an outstanding attorney and I am sure that you and FPIC hold her in the same high regard that I do. FPIC truly provides outstanding legal representation to their covered physicians.

Sincerely,
Dr. K
South Florida

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

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

First Professionals Insurance Company

