



October 2008



## Bare Physician License Suspended by Florida Department of Health

The Florida Hospital Association cites a case in which the Sarasota County Circuit Court entered a final judgment against a bare physician. The plaintiff was awarded approximately \$2.5 million. The physician did not make a payment on the judgment or file a notice of appeal. The Department of Health suspended the physician's license as a result of his inability to meet his financial obligation relating to the judgment.

South Florida has become the nation's leader in doctors with out med mal insurance. Almost a quarter of physicians in Broward and Palm Beach, more than a third in the Miami area, as well as an eighth statewide in Florida do not have malpractice insurance. A state law allows them to go without coverage. Florida requires chiropractors, podiatrists, midwives, some nurses, acupuncturists and optometrists to be insured, but medical doctors were allowed to go without coverage to help them cope with the high malpractice premiums in Florida. Some family practitioners pay in excess of \$50,000 per year and some surgeons and high risk specialists pay in excess of \$200,000.

Bare physicians are required to post signs in their offices and promise to pay up to \$250,000 per malpractice award, with a max of \$750,000 per year. If a physician does not pay, the state can revoke their license.

Consider the following as you discuss medical professional liability options with your clients:

- Purchasing coverage is about indemnity AND defense costs. Look for carriers who provide experienced litigation management to minimize expense in defense of a case. Defense costs are very expensive and can run higher than the indemnity payment. A physician may not have the monetary resources to battle a claim and may be forced to enter into a settlement with out proper defense coverage. Some policies provide a level of reimbursement for lost earnings when a physician is away from his or her practice.
- Going bare is not a one-time event for a physician. Each time a bare physician obtains a new asset, it must be determined how to protect that asset. The expense involved in ongoing asset protection may be greater than the professional liability premium.
- Bankruptcy is a real possibility for bare physicians when faced with a substantial verdict in favor of the plaintiff. The new bankruptcy law may create problems for physicians who seek to discharge a medical mal practice claim. Even in the event that a physician successfully discharges a claim, negative effects can result - such as their patients receiving letters from court appointed receivers who are seeking direct payment of co-pays. In addition, new bankruptcy laws can impact the applicability of the homestead exemption for a physician's personal residence.
- Premiums previously paid will not cover claims reported after a claims-made coverage has expired. However, a bare physician will likely not be able to purchase tail coverage, exposing the physician for all past incidents.
- Hospitals that allow physicians to go bare may not end up paying for the physicians losses. Hospitals can sue the bare physician for losses sustained.
- Bare physicians are always asked to testify against insured co-defendants by the plaintiff's attorney. The bare physician must then make the difficult decision to go against colleagues or be forced to pay a settlement.
- Referring physicians may feel uncomfortable referring to a bare physician fearing they may become a target in a med mal claim.
- A bare physician is all alone. A bare physician has only the support of the lawyer who is charging for every call and action taken. Insurance carriers routinely provide a defense lawyer and team along with experienced claims handlers, and risk managers.

*From September & April 2008 Agent Advisor FPIC*

### Cyber Liability

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In the technological world we live in today, cyber liability has become an increasingly needed product to protect against security breaches. In the health care arena there is risk in patient records being stolen or compromised. Some examples:

Akron Children's Hospital had to notify about 230,000 patients that a hacker gained access to sensitive information including Social Security Numbers and bank records.

Michael Chaney filed a federal lawsuit against The Sisters of St. Francis Health System and its contractor for a security lapse which violated HIPPA privacy laws. The security breach may have exposed the private information of more than 260,000 patients.

Westerly Hospital in Rhode Island had 2000 patients' Social Security Numbers and medical records posted on a publicly accessible website, but they have no idea who posted the information.

hCi has Cyber Liability markets and coverage available for your health care clients. For more information on this coverage and options available to your client, call us today!

**1-800-397-9697**

### Recently Written Accounts

A great big "Thank you" to our fabulous production network of agents! We appreciate your confidence in hci and we couldn't do it without YOU! These are just some of the recently written new business accounts:

Type of Account	LOB	State	Premium
Home Health	PL/GL/Auto	NM	\$ 20,447
Home Health	PL/GL	CA	\$ 49,562
Nursing Home	PL/GL	LA	\$ 69,664
Laser Clinic	PL/GL	CA	\$ 9,307
AIDS Service Org	PL/GL	LA	\$ 34,250
Long Term Care	PL/GL	MS	\$ 26,500
Nursing Home	PL/GL/Prop	MA	\$254,802
Nurse Registry	PL/GL/Auto	MI	\$ 3,711
Group Home	PL/GL	AZ	\$ 8,790
Laser Clinic	PL	IL	\$ 7,500

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