



Bringing Certainty to an Uncertain Future

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Editor's Note: The Wisconsin Medical Society helped form PIC WISCONSIN in 1986 to ensure the availability of medical professional liability insurance for Wisconsin physicians. Today, the Society continues to endorse ProAssurance (PIC WISCONSIN's successor) to provide professional liability insurance coverage with unmatched success in claims defense.

‘Juggling running chain saws is easy compared to practicing medicine these days.’

That’s the best quote I’ve heard from a physician recently. This particular physician was speaking specifically about a Missouri Supreme Court decision striking down his state’s tort reforms after 7 years, but it applies to the practice of medicine everywhere, doesn’t it?

Ironically, the only real certainties in health care are uncertainty and change—which are the product of external forces beyond the control of those who must deliver care in a chaotic environment of oppressive regulation and cost concerns.

Wisconsin has been at the forefront of one solution—the aggregation of health care delivery. No other state has seen so

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many large clinics form to provide physicians and others with a broad set of tools and capabilities to thrive in the new world of health care. But even physicians and those running the large clinics in Wisconsin continue to express frustration—whether it’s with the Affordable Care Act or the constant efforts within the state to weaken tested legal reforms.

Other states are moving fast in that direction, with some physicians seeking the perceived safe harbor of practice within a hospital or as a member of a large, multispecialty group. They tell me they are pleased someone else is worrying about emerging risks such as cyber liability, HIPAA, and others. I am sure you have your own pet peeve about what comes between you and the patient-centered care you strive to deliver every day.

Woven throughout this rapidly changing landscape is the constant risk of medical liability litigation and concomitant change in the medical-legal environment. With care being delivered in such a stressful environment, the second-guessing of split-second decisions by the plaintiffs’ bar is growing exponentially, and the opportunity to exploit new theories of liability abounds. Clearly, the constant struggle to maintain a level playing field of fairness in the courtroom will

only get harder as physicians and facilities strive to deliver optimum care.

So the logical question is, “What is my professional liability insurer doing to address these emerging risks and reduce the uncertainty in my professional life?”

Our approach at ProAssurance is multi-pronged and designed to meet the needs of physicians practicing as part of a hospital-owned or affiliated practice, within a multispecialty group or in the more traditional small group or solo-practice settings. We understand there always will be uncertainty, but we are committed to removing as much of it as possible from the professional lives of each of our insureds.

As the recent Missouri Supreme Court ruling proves, we can never take for granted hard won legal victories. Time-tested reforms and laws that have real benefit in securing a just, level playing field will be attacked by the plaintiff’s bar; and, as we’ve seen in Wisconsin, a shift in the political landscape can set the stage for those challenges to be successful.

Your support of organized medicine through your Medical Society is crucial in the fight to keep these important laws on the books and working for you. Equally important is your choice of medical professional liability insurance to provide certainty and service when legislative and judicial remedies fail.

In Wisconsin, for example, ProAssurance brought its unmatched local expertise to

bear by working with the Wisconsin Medical Society to deliver a seminar for its members on *Jandre v. Injured Patients and Families Compensation Fund*. This recent State Supreme Court decision is generating concerns regarding what information physicians might be expected to provide to patients in other cases. Keeping physicians and risk managers up-to-date on developments that can fundamentally change the medical-legal climate is just one way we eliminate uncertainty for our insureds.

Bringing certainty to the uncertain medical-legal climate that lies ahead requires financial strength and a commitment that, no matter what, your medical professional liability insurance carrier will be both *willing* to mount an unfettered defense and able to pay any resulting claims. As you consider the true cost of medical professional liability insurance, I urge you to satisfy yourself whether the carrier you are considering is being operated in a manner that assures your future financial security. Remember, the most expensive policy you will ever buy is one from a company that can't or *won't* live up to its promises. Think for a moment about the uncertainty of having to pay a million dollar loss *and defense costs* from your own pocket.

With the increasing transparency of medical liability outcomes and the growing use of that data in credentialing, patient satisfaction scoring, and reimbursement calculations, an unfettered defense of your good medicine is more important than ever. In an age where a few key strokes and mouse clicks can start an avalanche of reputation-destroying internet postings, defending your reputation in health care litigation is paramount. Before you purchase any medical professional liability coverage, please satisfy yourself that you will receive the benefit of decades of local defense experience, backed by a willingness and ability to deploy both human and monetary capital on your behalf.

I also urge you to consider the sometimes conflicting risk appetite and expectations introduced when physicians become employed by, or affiliated with, larger institu-

tions. The feeling of certainty that can come from having a corporate umbrella to handle vexing compliance and regulatory matters can evaporate when claims decisions are based solely on a best monetary outcome.

A physician's reputation should be the prime consideration when a claim alleging malpractice involves both the individual who delivered the care and the institution where that care was delivered. An institution may not understand the physician's personal stake in defending a claim. For the institution, a claim can be viewed as a business matter; for a physician, it's personal.

Your medical liability insurer should have products and services tailored to meet the needs of both partners—policies such as ProAssurance's ProControlSM allow both the individual physician and the institution to secure an outcome designed to be satisfactory to both. These twin objectives can be accomplished, but require an insurer with sophistication and experience to make that happen while delivering the risk management and loss prevention services that add real value to the insurance equation.

The further we try to peer into the future, the murkier the crystal ball becomes, and the uncertainty introduced by the Affordable Care Act makes it all the more difficult. None of us can know what lies ahead, but the real drivers of medical liability litigation—unexpected outcomes and patient frustration—cannot help but be exacerbated by adding millions of the currently uninsured into a system that cannot hope to have the capacity to serve them.

What lies ahead is, to borrow a phrase from Donald Rumsfeld, "...one of the unknown unknowns—[the] things we do not know, we don't know." Being mindful of the uncertainty ahead, you should insist on an insurer that is financially and operationally prepared for these unknown unknowns... an insurer that will keep its commitments to you and add certainty to your professional life—whether you are a solo practitioner or part of a major health care system. That's the promise of ProAssurance and Treated Fairly[®], and it's my promise to you, as well.



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