FROM THE CHAIR OF THE BOARD

OCTOBER 23, 2003

Dear Medical Mutual Member:

The large 2004 rate increase for Medical Mutual Policyholders is a clear indication that the national medical malpractice insurance crisis has taken a firm hold in Maryland. A year ago, we were still hopeful that our state could be spared the worst effects. But, like a flood tide, the malpractice crisis has flowed across the country. The American Medical Association now reports 19 states are in crisis and 25 more are showing problem signs. Only six states, the ones with comprehensive, long-term medical liability reform, have been spared.

We definitely have our work cut out for us. Until changes are made in the courts and the legislature, the pain of the crisis will be widespread. Medical Mutual will continue to be hammered by out-of-control jury awards, pushing premium rates higher. Some Insureds will be forced to relocate or limit their practice. Some will reluctantly choose to retire. Patients will lose access to trusted Physicians.

Change will be difficult. Plaintiff attorneys, desperate to maintain the system that provides them huge fees from multimillion dollar awards, will fight us every step of the way. They will exploit any opportunity to maintain their status quo. So, as MedChi and Medical Mutual prepare to take a forceful position in the 2004 legislative session for additional needed tort reform measures, your support will be more vital than ever.

Once again, we sincerely regret the hardships this situation will cause for our Insureds. Through the tough times ahead, we pledge to work aggressively on your behalf to achieve the needed changes on the state level, to keep your insurance company strong and viable, and to always remember our commitment to the long term defense of your practice.

Sincerely,

D. Ted Lewers, M.D.
Chair of the Board

HEADLINES

Malpractice Insurance Crisis Hits Home
A dramatic increase in claims payouts is pushing insurance rates higher and creating a crisis in Maryland for Physicians, Patients and Insurers.

Dividend Credit Announced for 2004
A 14% Dividend Credit will be given on 1/1/04 renewals for all Policyholders who have been continuously insured by Medical Mutual since 1/1/02.

Myth vs. Reality
Recognizing the fiction offered by the plaintiff trial lawyers is a key challenge of the current malpractice crisis debate.

Out-of-State Services Can Affect Coverage
Extending the scope of your practice outside of Maryland without proper notification may put your policy coverage at risk.

Important Notice on Rendering Services Out-of-State
Medical Mutual is a Maryland company, and our standard premiums and procedures have been developed to reflect the exposure that physicians incur as a result of rendering professional services rendered outside the State of Maryland. It is, therefore, important that you contact our Underwriting Department prior to engaging in out-of-state activities to confirm whether these activities are covered. In some cases, we may be able to accommodate this added exposure. In other cases, however, coverage for the exposure will be excluded because it involves increased risks not contemplated by our program.

The Dividend Credit will be 14% for all Policyholders renewing 1/1/04 who have been continuously insured with Medical Mutual since 1/1/02.

The Medical Mutual dividend credit is funded when better than expected claims results from past years occur. The decline in the size of the dividend is due to the growth in claims severity.
Maryland Insurance Administration Approves MEDICALMUTUAL Rate Increase for 2004

Faced with a rapidly deteriorating malpractice environment, MEDICALMUTUAL submitted a filing in June to the Maryland Insurance Administration (MIA) requesting an overall 28% rate increase for 2004. Due to the size of the proposed increase, the MIA brought in a national actuarial firm to join in the review of the filing. A hearing on the filing was held on August 6 and the MIA approved the rate increase. It will take effect on January 1, 2004 for new and renewal policies.

Cause of Crisis Confirmed

In addition to being supported by the MIA’s actuary and the consulting actuary, the findings were also affirmed by an independent actuarial consultant hired by MedChi to analyze the rate request. This actuary testified that “the growing severity, or size, of malpractice judgments and settlements was the main driving force behind the need for higher rates.” In fact, this actuary found that the claims payout data actually “yielded a so-called ‘indicated rate’ of 38.6 percent,” which is more than 10 percent higher than the increase requested by MEDICALMUTUAL.

A National Problem

The situation we face in Maryland is reflective of the problems being faced across the country. In the past few years, dozens of malpractice insurance companies have dramatically increased rates as they struggle to remain financially stable in the face of a “litigation lottery,” which primarily benefits plaintiff attorneys who receive millions in contingency fees from out-of-control jury awards. One of the hardest-hit states, in fact, has been neighboring Pennsylvania, where rates have skyrocketed, insurance carriers have gone insolvent and Physicians have closed their doors. In Maryland, only four of the 14 carriers writing malpractice insurance since 1995 are still doing business in the state. Pressures on MEDICALMUTUAL are building, however. As of 9/30, with 25% of 2003 still remaining, MEDICALMUTUAL has already paid out $68.6 million in claims. That is $12.6 million more than the total claims payout for all of 2002.

New Legislation Needed

To address the worsening situation of outrageous jury awards and frivolous lawsuits, MEDICALMUTUAL will support the MedChi as they begin working with legislators to introduce critically needed tort reform measures in the next session of the Maryland General Assembly. Please visit the MedChi website, www.medchi.org, to learn more about this issue and how you can assist with efforts to enact critically-needed medical liability reform in Maryland.

Relentless Surge in Claims Payouts Drives Malpractice Crisis

Using distortions, half-truths and outright falsehoods, opponents to tort reform are quick to focus attention away from the real issues concerning the malpractice insurance crisis.

MYTH

Physicians shouldn’t be complaining about increases in their malpractice insurance costs since they are just going to pass the costs onto health care insurers.

REALITY

Physicians can’t pass higher costs on to health care insurers. For years, Medicaid, Medicare and health care insurers have been reducing their reimbursements, making Physicians work harder and longer to meet the higher costs of liability insurance, staff salaries, office overhead and other practice expenses. One of the ironies of modern medicine is that at a time when patients are paying more and more for health care, Physicians are receiving less and less.

MYTH

There is no crisis. Malpractice insurance costs are rising for many reasons, but not because of an increase in claims payouts.

REALITY

On a local level, the graphs on the facing page clearly show that escalating claims payouts are creating a crisis in Maryland. The result will be health care availability problems, particularly in such crucial specialties as obstetrics, neurosurgery and trauma surgery. On a national level, a comprehensive report on medical malpractice insurance prepared for Congress by the United States General Accounting Office states that “increased losses on claims are the primary contributor to higher medical malpractice premium rates.”

MYTH

Professional liability insurance companies are raising malpractice insurance rates to make up for past investment losses.

REALITY

A company cannot include past investment losses to support a future rate increase. It is not allowed and was not, in fact, included in the MEDICALMUTUAL rate increase filing. Had we attempted to recover past investment losses, our rate filing would have been disapproved by the Maryland Insurance Administration. The primary driver of our rate increase was losses caused by escalating claims payouts.

MYTH

The problem would be solved if the state could get rid of the small number of “bad” Physicians who are responsible for much of the malpractice in Maryland.

REALITY

This charge is not supported by MEDICALMUTUAL’s data. More than 90% of the money paid out to medical litigation plaintiffs and their lawyers on behalf of our insured Physicians for the most recent 10-year span of 1993-2002 were made on behalf of Physicians with no more than two payouts during that time period. In the past five years, that number increases to more than 97%.

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