What a past 12 months this has been! Last year at this time, we were ready to go to print with our Fall 2001 edition of Frontline when St. Paul alerted its agents and brokers that in order to return to profitability, it was tightening its underwriting criteria and raising its rates. We had hardly yelled “hold the presses” and started rewriting our cover story when the Pennsylvania Insurance Commissioner ordered PHICO into rehabilitation because its policyholders’ surplus had dropped below the mandatory level. These events signaled the end of the longest soft market cycle medical malpractice underwriters had experienced since the 1975-76 crisis. Although we had been predicting a return to hard times for over two years, little did we know that just four months later, St. Paul would call it quits altogether. Its decision set the hard market cycle spinning!

St. Paul’s action took almost everyone by surprise. Not only had it been a major provider of medmal insurance for over 65 years, but for a number of years it ranked as the largest medmal underwriter in the U.S. with a 9+ percent market share in 2000. Analysts received mixed signals when just months before its withdrawal St. Paul acquired already financially distressed MMI/ACIC. When St. Paul, MMI/ACIC and PHICO were taken off the trading table, medmal policyholders paying a sum of over $850 million of annualized premiums were forced to find new carriers.

The market’s woes are compounded by the retrenchment of notable carriers including CNA, AIG, Farmers, Zurich, and SCPIE. These carriers have either declared moratoriums on new submissions or are significantly decreasing their writings by re-underwriting their books of business. Interstate, Chicago and Clarendon, as well as others, merely called physician medmal underwriting quits. The question is: “Where will these policyholders buy their medmal insurance, and will they be able to?” Unlike 1975-76 when there were virtually no carriers willing to sell policies to doctors at any price, there are plenty of carriers offering their products today. Instead of lack of availability, the issue this time around is primarily affordability. Those carriers that have tightened their underwriting standards and have raised prices have done so for one reason: They don’t want to continue to take red ink baths and be forced to join the ranks of the departed, whether voluntarily or otherwise.

Significantly, of the carriers remaining in the market, a large number are “bedpan mutuals” organized to fill the 1975-76 void. While most of these carriers have now grown and are financially strong with talented managers at their helms, the fact is, their decisions are heavily influenced by the continued on page 2
departure of St. Paul, the demise of PHICO, Frontier, Reliance, and others, and the retribution of many leading commercial insurers. Despite the bedpans’ desire to pamper their “owners” with low rates, they know the “not-for-profit” formula is too risky in today’s climate of increased claims frequency and mounting multi-million dollar settlements. They too agree that raising their premiums and tightening their underwriting belts are keys to survival. In this market, don’t look for the bedpans to solve all the market’s woes. Expect them to pick and choose their opportunities by playing it safe. Keep in mind, saying “no” is a difficult message for these fine companies to deliver having grown during soft market pricing and having said “yes” to nearly anyone who came to them.

Some, but not a lot of fresh capacity has entered the market. Most notable, General Star (GenStar) and GE’s Medical Protective (MedPro). GenStar, a Berkshire Hathaway company, is pursuing the high risk, non-standard soloist market while MedPro is targeting preferred physician soloists and small/large group practices. Though MedPro is not really new capacity, it’s one of the few with the capacity and aggressive desire to grow. MedPro’s direct premiums written increased 17 percent in 2001 over 2000 results.

“In American enterprise, if there is an opportunity in any market, people rush in to make offers according to the market, [however,] you don’t see anyone rushing into [the] medical liability [market] to make offers.”

Dr. Donald J Palmisano, president-elect of the American Medical Association

The new story then is not about whether healthcare providers can buy malpractice insurance, but rather if they can afford it! Remember, a significant number of healthcare providers looking for a new professional liability carrier are those that the bedpans didn’t want for one underwriting reason or another. Their niche is to cover solo and small group practitioners. By and large, only the commercial carriers are interested in large groups, hospitals, surgery centers, clinics, and other “institutional” or allied healthcare types of risks and/or esoteric coverages such as managed care, directors and officers liability and employment related practices liability. Overall, after years of underpricing in quest of market shares, most underwriters have returned to the basics of underwriting. Whether bedpan or commercial, their mantra is, “conservative risk selection, stay in the box, take your time and, just say ‘no’ if you don’t fully understand the risk.”

Those healthcare providers that are declined by the bedpans and commercial admitted carriers will have to find their security and peace of mind in the surplus lines market. Unlike admitted carriers that are subject to regulation by the various state insurance...
Can’t Be Blamed...

Results of red ink start to show up and we exposed the facts. Prices must go up or...

Is Malpractice Tort Reform Working?

USA tort reforms and state-to-state review vs. England’s no-fault system. Crisis was looming. Carriers began to fail, or pull out, or pull back, or just ignore the trends and continue their deep discounting.

La Niña Can’t Be Blamed...

What are you willing to pay for a sense of Security & Peace of Mind?

The untold story is the service crunch. Because most carriers expect the market crush to wane within the next 12 months, few are willing to increase their staff size and associated overhead costs. With nearly $1 billion of premium (slightly under one-sixth of the total market premium) looking for new homes, new applications and phone inquiries have quadrupled for many carriers. Instead of responding within the customary three to five working days, carriers who can’t keep pace with the increased demand are asking applicants to wait patiently for three to four weeks. Waiting times up to six weeks are common. Those who want to shop for the lowest price will find it difficult and generally non-productive. While phone prices can be given to “in-the-box” risks, few underwriters will guarantee pricing over the telephone.

Those who want to shop for the lowest price will find it difficult and generally non-productive...

Overburdened underwriters will give a quick “no” if they sense they are merely being shopped.

continued on page 6
Expect to see a very different Top 20 list next year. Some carriers will drop out of the Top 20, and positions are expected to shift wildly as renewal prices increase, non-renewals fly and new accounts are added.

One thing is for certain—change is here.

...and they all came tumbling down

**August 2001**
*PHICO Placed in Rehabilitation by Pennsylvania DOI*

**October 2001**
*Reliance Liquidation Order Issued*

**December 2001**
*St. Paul Announces its Total Withdrawal From the Medmal Market After 65-Year History*

**AUGUST 2001**
*Frontier Voluntary Rehabilitation Agreement Reached With New York DOI*

**DECEMBER 2001**
*Interstate and Chicago Place Moratoriums on New Accounts*
(several months later, they completely withdraw from the physicians and surgeons medmal market)*

**DECEMBER 2001**
*St. Paul Announces its Total Withdrawal From the Medmal Market After 65-Year History*

**May 2002**
*MIX New Jersey DOI Agrees to Solvent Run-off*

**April 2002**
*Legion Placed in Rehabilitation by DOI*
As a means to quell increasing malpractice insurance rates, the house has passed a measure that limits pain-and-suffering damages that juries may award in medical malpractice suits. The 217-203 vote followed a lengthy debate that included stories of doctors forced to quit their practices or relocate due to skyrocketing insurance costs.

“Doctors and other health care providers are being forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine and obstetrics and gynecology,” said Jim Sensenbrenner, (R-Wis.). Dr. Yank Coble, president of the American Medical Association, said the legislation will “bring common sense back to our nation’s medical liability system and bring much needed relief to patients throughout the country who are struggling to find physicians.”

The bill must now face a Democratic-controlled Senate which has already voted against similar measures.

The bill is H.R. 4600.

The legislation info is available on the Internet at: http://thomas.loc.gov

HEALTHCARE PROFESSIONALS’ IS NOW A BROWN & BROWN COMPANY

We are pleased to announce that Healthcare Professionals’ has joined the Brown & Brown team. Brown & Brown is the sixth largest independent insurance intermediary in the country with over 62 years of continuous service. Their strength, vision, and support will help us deliver the best in medical malpractice insurance solutions for our clients.

See previous editions of Frontline News for suggestions on how to cope with this market. Previous editions are available on our web site: www.hcpinsurance.com, in our Editorial page.
FYI

Buyer Beware

Pennsylvania DOI obtained a consent order shutting down PLIC/Professional Liability Insurance Company, Ltd.—St. Vincent, West Indies. Florida, Texas, West Virginia and Georgia also have acted. Florida DOI identified another corporation, Physicians Exchange Association, Physicians Exchange Association Risk Retention Group and Doctors Liability Exchange—Atlanta, Georgia. Contact the state Department of Insurance to check on license and financial condition of any new carrier under these names.

This affordability crisis, like the 1988/89 period, can bring out overly aggressive business plans that may or may not meet the financial solvency test of state department of insurance guidelines. Be leery of any carrier not licensed in your state or white listed by the surplus lines association and not represented by a large, reputable broker.

Do your due diligence!

Who’s in the deep end?
A State-by-State Sampling of Medical Malpractice Rates

Annual Premium Ranges as of January 2002 in selected areas of the United States.

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<thead>
<tr>
<th>Internists</th>
<th>Low</th>
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<tr>
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<td>Michigan (Detroit Area)</td>
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<td>West Virginia</td>
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Source: Medical Liability Monitor, Pennsylvania Medical Society, American Association of Neurosurgeons

MedMal Insurance Affordability continued from page 3

without applications, stating “firm pricing is only given after careful review of an application.” Overburdened underwriters will give a quick “no” if they sense they are merely being shopped. If you are outside the box, one key to finding the right carrier in this market is to assign the responsibility to a qualified medmal insurance broker.

Bottom line, the market has changed and is continuing to change. It was soft for far too long. History has shown that the longer the soft market cycle, the longer and more severe the following hard market cycle. This time, with the impact of 9/11, many analysts are not willing to predict when the market will again soften. But history has shown that increased prices attract competition that in turn drives prices down. If any one thing is certain, it is that the market will soften again…eventually. It always does!

As always, caveat emptor! The only way to acquire a true sense of security and peace of mind is to do your homework. Make your selection of a carrier carefully. Rely upon a qualified insurance broker to do your due diligence search. If your present broker is not a medmal specialist or doesn’t know the market, find one that is or does. If the carrier you are considering is not rated by A.M. Best or has below a B+ rating, find out why. If it is non-admitted and not white-listed, walk away at any price.
Risky Business

The healthcare industry has been reluctant to heed the warnings of a continued worsening insurance market providing coverage for critical provider operations. For the last decade, signs that the “sky was falling” alerted an industry under economic constraints and impending financial attack. However, these alerts were ignored and perceived as unreal, especially by California physicians experiencing comfort with current insurance companies and MICRA protections. Due to this commodity-purchase approach, factual documentation of a pending disaster seemed unimportant at the time. Now, the reality hitting many California physicians is that MICRA may not head off large rate increases or a rash of non-renewals January 1, 2003.

The realities of the insurance crises are now dramatically evident (even in California), and place the net income exposures for the healthcare industry organizations, entities and operations at severe risk. Insurers continue to reduce capacity, offering coverage to only clean risks (dropping others) at increasing premium costs. Detailed underwriting practices inspect all physician privileges and scope of care, often assigning endorsements and additional premium assessments for care considered high risk and known to be unprofitable for insurers, but highly profitable for doctors. Examples range from bariatric surgery and weight reduction treatments to the administration of Botox. All patient care venues are considered “at risk” as acute care moves to ambulatory care and office practice settings due to payor reimbursement practices.

The direct effect to net income—increased overhead costs. The direct effect to continued operations—insurance coverage at any cost.

Surviving the Storm

Survival in this environment requires early planning, a seasoned and competent team of professionals respected by the underwriting community and a willingness to develop a risk profile and strategic plan to direct operations. The ability to thrive requires the extension of the survival plan to address net income revenue risk exposures that are equally challenged.

Because you are not alone, as many other providers struggle to survive this insurance crisis, and expertise is in demand, now is the time to act and initiate a plan to address insurance and risk issues. The team must include an experienced broker as well as a knowledgeable risk manager, both with specialty expertise to direct your management staff.

Preparing Your Risk Profile:
The story you need to tell is detailed and complex. To begin with, you’ll need to define and defend:

- Patient population served and outcomes of care.
- Patient satisfaction, grievance and claims experience.
- Health care team qualifications and competency, all those in contact with your patient population, whether employed, contracted or support service.
- Services provided by diagnosis, treatment and procedure.
- Operational protocols, policies and procedures managing potential risk, e.g. follow-up abnormal ancillary testing and consent.
- Patient care equipment, pharmaceuticals and supplies.
- Regulatory compliance, clinical correlation of medical record documentation and billing practices, HIPPA.
- Continuum of patient care referrals, monitoring and case management.
- Inventory of loss exposures and insurance program coverage details, all lines.

The reality of insurance extends beyond your current policies and renewal dates. Now it becomes all about your patient care practices and results.

Are you prepared?
If finding the right MedMal Insurance were baseball, we’d be batting 1000.

For over 30 years, we have never struck out for a client. And as the medical malpractice insurance industry struggles through yet another crisis, there is no other broker you would want on your team when you’re facing significant premium increases—or worse, a cancelled policy. We are the specialty healthcare division of the sixth largest insurance broker in the nation and have the knowledge, relationships and creativity to get you the coverage you need, at the best possible price. In this environment, “business as usual” no longer works. It’s time for a more disciplined approach. It’s time to call HCP at 800-435-6565.

For MedMal insurance, we’re more than a source. We’re a resource.