

Maryland Passes Insurance Rate Stabilization Fund

Measure contains new requirements for expert witnesses and cap on some noneconomic damages.

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Senior Writer

As physicians push for professional liability reform at the national level, the Maryland legislature signed off on a bill aimed at halting rising malpractice premiums.

The centerpiece of the legislation is a rate stabilization fund for medical professional liability insurance that will be funded through a tax on HMOs.

The Maryland State Medical Society (MedChi) and the Maryland Hospital Association estimate that the fund would cover about 95% of the increase in premiums for 2005. Obstetricians in Maryland are paying about \$120,000-\$160,000 for insurance coverage this year.

Maryland physicians have been pushing hard for reform—especially since last fall, when the state's largest malpractice carrier, Medical Mutual of Maryland, said it would raise its premium rates in 2005 an average 33%. The move follows a 28% increase a year ago.

Maryland is considered a medical liability insurance crisis state by the American College of Obstetricians and Gynecologists. And physicians of all specialties in the state are choosing to lay off staff, close practices, or move, in order to deal with the malpractice problem, according to MedChi.

The new legislation was passed in dramatic fashion during an end-of-the-year special session called by Gov. Robert Ehrlich. But he objected to the HMO tax and said the bill didn't contain meaningful tort reform.

Gov. Ehrlich then vetoed the measure in

January, but legislators returned to work to override the veto.

The saga is expected to continue as Mr. Ehrlich prepares to introduce other legislation with more comprehensive reforms.

The state's physician and hospital groups are applauding the new legislation as an important first step. "While we agree with the governor and others that Maryland needs

more comprehensive reform, it does offer important positive elements that we cannot walk away from, given the need to assure access to health care to the citizens of Maryland," MedChi and the Maryland Hospital Association said in a joint statement. "We believe this bill will keep physicians on the job."

The groups pointed out that the measure contains a reduction in the cap on noneconomic damages in death cases, reform of how past medical expenses are calculated, and new requirements for expert witnesses. However, the legislation fails to include needed reforms that include mandatory structured settlements of awards, an expansion of the Good Samaritan Act to include emergency department professionals, and parameters on the calculation of future economic damages, the groups said.

Although there is still more work to be done, the attention brought to medical liability reform through the special session is good news for physicians, said Willarda V. Edwards, M.D., an internist in South Baltimore and MedChi president.

The increased awareness and the better understanding of the issues that resulted from the special session will help as physicians seek increased reform this year, she said. MedChi plans to pursue limits on lawyers' fees, structured settlements that can be paid over time, reforming the calculation of economic damage payments, and enactment of a Good Samaritan law.

"This is just a little taste of what we think should be done," Dr. Edwards said.

But physicians in Maryland are still waiting to see what the current legislation will

mean in terms of premiums. "It's too early to say how this is going work," said Miriam Yudkoff, M.D., an ob.gyn. in Annapolis.

And Dr. Yudkoff said she has some concerns about what the insurance reform provisions in the leg-

islation will mean for liability carriers. If Maryland becomes an unprofitable place for insurers, it could have a significant impact on physicians' ability to obtain coverage. "We need a bill that will make Maryland a favorable state for carriers," she said.

Carol Ritter, M.D., a solo gynecologist in Towson, who gave up obstetrics last year, said she sees the legislation as a first step in reform. However, the changes prescribed by the legislation aren't enough to make her able to afford to practice obstetrics again.

The rate stabilization fund is likely to limit the 2005 average premium increase, Dr. Ritter said, but it will still be more than 2004 rates, which were already more than she could afford. However, Dr. Ritter said she's hopeful that it will allow some of her colleagues to stay in practice in the short term.

The legislation also won't help David Zisow, M.D., a gynecologist in Bel Air, to start practicing obstetrics again. Like Dr. Ritter, Dr. Zisow gave up obstetrics at the beginning of 2004 when the rates became too high. But even though the new legislation contains significant reforms, Dr. Zisow said he wouldn't be able to afford to buy the tail coverage that would be necessary to start practicing obstetrics again.

His insurer, Medical Mutual, allowed him to forego paying tail coverage for obstetrics because of his many years with the company. However, he would have to pay a significant amount if he were to go back into obstetrics, he said.

As it is, Dr. Zisow has already seen a major increase in his premiums for gynecology alone in 2005, and he said he isn't optimistic that the legislation will result in too much change in premiums.

"It's business as usual," he said.

This is a wake-up call to physicians to get politically active, said Mark Seigel, M.D., an ob.gyn. in Gaithersburg and the former president of MedChi. Passing meaningful changes to the system takes time, he said, and ultimately it may mean voting officials out of office who fail to take on medical liability reform. "Doctors have to do more than just go to the office and see patients," Dr. Seigel said. ■

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