The Standard.

DiederichHealthcare
INSURANCE • RISK SOLUTIONS

SECOND QUARTER 2006

In This Issue...

Softening Med-Mal Market .... page 1
Reducing Your Malpractice Risk .... page 2
Alternative Risk Vehicles .... page 4
Good Marketing is Not .... page 4
Style and Grace for the Medical Practice ..... page 6
Newsnotes .... page 8

Softening Med-Mal Market

Changes are now occurring in the physician professional liability insurance marketplace. This is good news for physicians.

There are physicians who have found themselves forced to go to surplus-line (non-standard) carriers during the last couple of years due to market-place reasons. Now, there are standard carriers who may be willing to offer these physicians coverage.

Standard carriers are now beginning to loosen their underwriting and liberalize their consideration of past claim activity. This relaxing of requirements is leading to loss history credits and in some instances, higher percentages of credits.

Restrictions on territories are also being relaxed by some carriers. For example, some carriers in the recent past would not write certain specialties in specific restricted territories. Now, these same carriers are beginning to accept business

(Continued on page 3)

President's Letter

As of this writing, a predicted softening of the medical professional liability insurance market is emerging. We are working with insurance carriers to be more accommodating to physicians' needs. Rates are beginning to stabilize with companies taking much less in the way of rate hikes and some companies have made the decision to keep their rates flat. In a few instances, rates have actually been reduced. This is good news as physician practice overhead expenses spiral upward while at the same time the squeeze on revenue continues due to reduced reimbursement for services.

This issue of The Standard has been developed for physicians throughout the country. We have attempted to present meaningful and helpful information with broad-base appeal to the physician readership.

One aspect of such information is communication. We all know that effective communication is a necessary component of a successful medical practice. In our rush to get things done, sometimes we need to be reminded of this. On the other hand, developing and growing your practice are priorities for professional and financial success. Having a keen awareness of this, we have brought you fresh perspectives on these topic.

In addition, we all know the value of information when you need it. With this in mind, we have included a resource contact guide which will be useful in tracking issues and developments affecting you and your practice. A review of relevant resources will help you maintain an awareness of both positive and negative developments within the insurance enviroment.

I hope you find this issue interesting and helpful. If we at Diederich can be of any assistance, please let us know.

Sincerely,

Jeffrey M. Diederich
President & CEO
Diederich Group

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MEDICAL MALPRACTICE INSURANCE

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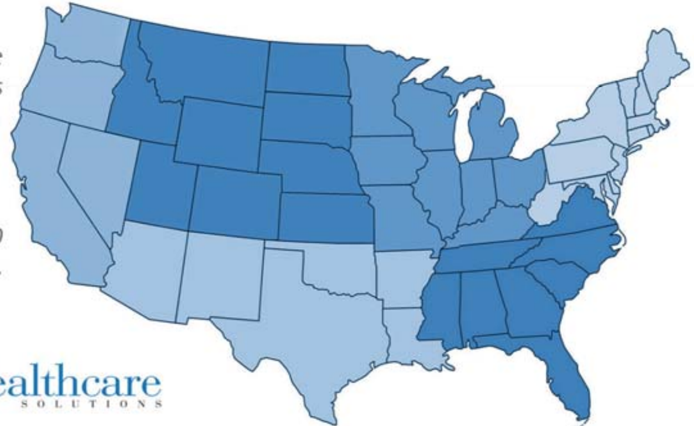
SOFTENING MALPRACTICE INSURANCE MARKET
--- GOOD NEWS FOR PHYSICIANS.

DIEDERICHHEALTHCARE PROVIDES CONSULTATION REGARDING THE COVERAGE FROM ANY CARRIER OFFERING MEDICAL PROFESSIONAL LIABILITY INSURANCE. PHYSICIANS USING US AS A SINGLE SOURCE ELIMINATE MANY OF THEIR HASSLES. AS A LEADER IN THE INDUSTRY FOR MORE THAN 35 YEARS, OUR GOAL IS TO DELIVER COST-EFFECTIVE QUALITY INSURANCE TO OUR PHYSICIAN CLIENTS. WE DEVELOP CUSTOMIZED SOLUTIONS.

■ DIEDERICHHEALTHCARE NETWORK

DiederichHealthcare assures physican clients greater portability, market accessibility, and effective consultation with our network of over 200 insurance affilitates.



TO ACCESS DIEDERICH'S SERVICES, PHYSICIANS SHOULD CALL 800.457.7790.

Individual physicians and groups of five of less can complete this form for each physician and fax it to 618-457-7900.

Please Print

Name Last:	Middle:	First:	
Address:	City:	State:	Zip:
Contact person:		Phone: ( )	
Email Address:		Fax: ( )	

I am sending you the following items which you will need

____ A copy of the declarations page of my current insurance policy which shows my name, specialty, retroactive date, and limits of coverage.

____ A brief narrative summary of all prior claims indicating the date and final outcome of the claim (i.e. dismissed, settled for $________, still open or Judgment with payment of $_________). Attach additional sheets as needed. If no prior claims, check here____.

Additional Information

Number of physicians in practice:	Are you board certified:
Current carrier:	Is your current policy being cancelled:
Specialty:	Number of deliveries:
Retroactive date (i.e. July 1, 1986):	Current policy period:
Year you first began in practice:	County of practice:
Do you perform minor risk procedures:	Major risk procedures:
Number of hours worked per week:	
Limits of coverage (i.e. $1,000,000 / $3,000,000):	

FOR FASTER SERVICE

Fax this page along with the above information to (618) 457-7900 (Medical Services Division).

Note: We must receive a copy of the front page of your current policy.

Reducing Your Malpractice Risk:
How to Use Effective Doctor Patient Communication Skills

An article by
Lisa Kairis Teryua MD, FACOG

What makes patients file a lawsuit? Is it just a poor outcome or is there something else over which physicians have some control? Why can two physicians both have an adverse event and only one result in a lawsuit?

The answer to the above questions often lies in the physician's communication skills. Several studies have looked at this issue (1-3). A common thread in all of these studies was that a breakdown in the physician-patient relationship was central to many medical malpractice claims. Patients who filed lawsuits often felt that physicians did not spend enough time with them, did not listen to them, were not available to them, or did not explain to them what to expect. Doctors who were sued compared to those who were not have been found to provide the patients the same content of information. The difference was in how the information was communicated to the patients.

In today's busy medical practice, physicians often do not have time to think about their communication skills. However, failure to take this type of self-inventory could leave one open to a potentially avoidable medical-legal risk. Physicians who have fewer claims often have better rapport with their patients. This improved doctor-patient relationship leads to greater patient satisfaction and less adverse legal outcomes.

So what can a physician do to improve his/her communications skills? First, one must recognize any poor communication patterns.

- **Avoid using highly technical medical terms with the patient.**
- **Not making eye contact with the patient, looking at a clock or watch, or making the patient feel rushed or hurried.**
- **Interrupting the patient when he/she is speaking.**
- **Not appearing interested, concerned or sympathetic.**
- **Not smiling when talking to a patient.**
- **Standing while talking to a patient versus sitting. Standing makes the patient feel rushed or as if you are going to leave at any moment.**
- **Not explaining to the patient what is to be expected even if it is just an office visit.**
- **Speaking too fast.**
- **Not being available to the patient if they have more questions after the first encounter.**
- **Not spending enough time with the patient.**

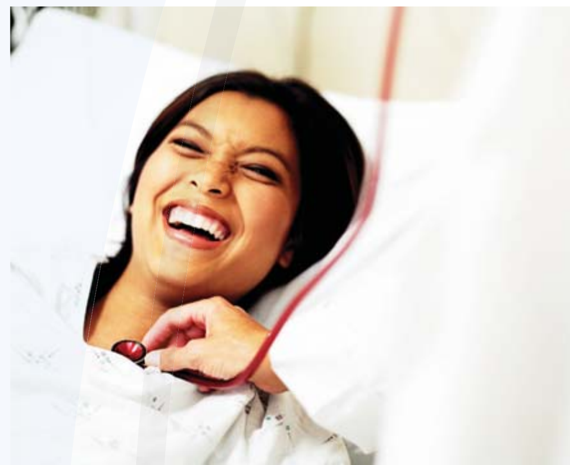
Once you have recognized and eliminated any poor communication patterns, you can work on developing new skills or honing your current ones.

Things you can do to improve your communication and relationship with your patient:

Listen – not only with your ears, but with your eye contact and body language as well. Too often as physicians we are listening for those "key words" or phrases so we can make a diagnosis or treatment plan. Failure to listen to both the emotion and other words that a patient conveys is a disservice to the patient.

Ask for feedback. Ask open ended questions. I routinely ask my patients "Is there anything else I can do for you today? Are there any other questions or concerns you have today? I know I just told you a lot of information which can sometimes be confusing. Is there anything you would like me to clarify or go over again? "

Silence. Pause. Too often we keep talking without a break. Give the patient a moment to allow them to digest what you are saying so that they can ask questions about what they do not understand or still want to know.



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Speak Slowly. Since we have often said the same thing many times over, we tend to speak quickly. However, this is the first time the patient is hearing this information. Allow the patient to hear and process what is being said.

Repeat. Summarize. Repeat. Studies have shown that patients only retain about 35% of what is told to them at an office visit.

Give clear expectations. Tell the patient what to expect at the visit, encounter or procedure.

Show empathy and concern.

Use simple words and explanations.

Ask patients to write down their questions. I tell my patients to write down a list of their questions whenever they think of them. This way they can call me or discuss them at their next visit.

A smile. A handshake. These simple things go a long way in establishing a relationship.

Using these simple techniques can improve your communication skills with your patients. Sharpening communication skills is an ongoing process that requires regular practice and assessment. Hence, you will not only find this valuable in improving your patient relationships but it will decrease your medical malpractice risk as well. ■

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3. Vincent C, Young M, Phillips A. Why do people sue doctors? A study of patients and relatives taking legal action. Lancet 1994:343:1609-1613.

Lisa Kairis Teryua MD, FACOG

Dr. Lisa Kairis Teruya is a Board Certified Ob/Gyn in private practice. She is an experienced surgeon and clinician who has also performed hundreds of deliveries. She is currently expanding her career using her experience as a consultant, author and business developer in nonclinical areas. Dr. Kairis Teruya received her Bachelors Degree in Psychology from Stanford University and her Medical Degree from the University of Illinois at Chicago. Dr. Kairis Teruya can be contacted at 808-218-1803 or at lkairis@yahoo.com

Softening Med-Mal Market - cont.

from select specialties.

Certain physician specialties have had difficulty finding offers of coverage from standard carriers regardless of territory in several instances.

Faced with obstacles like these, many physicians have sought coverage from non-traditional sources such as risk retention groups, risk purchasing groups, and captives. Coverage with these alternatives can lead to issues and questions when a physician leaves the practice insured by such mechanisms. How and where can these physicians find coverage when they move to another practice setting insured by another carrier which may be a standard or non-standard company? Will a carrier be willing to provide coverage to a physician who has previously been insured under these types of programs? Will prior acts coverage be offered or even available? Will an extended reporting endorsement (tail coverage) be acceptable to a new healthcare organization? Will a hospital or managed care organization accept this type of coverage through their increasingly rigorous credentialing process? These questions have been the source of grave concern during the med-mal hard market. Now, one can observe a slight relaxation of the standards used for evaluation and decision making with regards to what the insurance companies will or will not do. Perhaps this is driven in large part by the re-insurance market: the organizations that hold insurance companies accountable as far as risks and financial performance/ratios. Whatever the reason or combination of reasons might be, the market is experiencing a slight liberalization with regards to how the insurance companies are dealing with physicians and their practices.

This can be viewed as a positive development for physicians as they review their practice expenses and do their planning. Perhaps we are beginning to see a glimmer of hope for physicians – this is indeed good news!

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Alternative Risk Vehicles

What are those Alternative Risk Vehicles we keep hearing about?

An article by
Bill Ford, CPCU, JD, ARM, AAI, CIC

Alternative risk is defined to mean any approach to insurance risk other than the transfer of that risk through the purchase of a conventional insurance policy. This article will attempt to introduce the alternative risk vehicles available and briefly explain how they operate.

Alternative risk approaches include, but are not limited to, deductibles, large deductibles, retentions, risk retention groups, captives, reciprocals and in some jurisdictions, trusts or similar vehicles.

Insurance deductibles on a car or homeowner policy are an example of alternative risk. The insured obtains a premium reduction by keeping a part of expected nuisance losses. The insured avoids trading small claims dollars with the insurance company. The company saves the expense and overhead costs associated with handling these losses.

Alternative risk includes large deductibles. These are large enough to impact the insured if loss occurs. When premiums become unaffordable, this mechanism is employed to maintain affordability and protection against catastrophic loss. These deductibles usually range from $25,000 to $1,000,000 or more and are normally used as a last resort.

Retentions are like deductibles except that a retention may mean the insured becomes responsible for claim defense for any loss within the deductible. When a deductible is employed, the insurance company continues to provide claim service and defense. Under a retention, the insured may have to do this on their own and the insurance company only becomes involved when the total claim exceeds the amount of the retention.

Risk retention groups are insureds that have banded together and form a federally chartered insurance company to share risk with each other. All risk retention groups operate under color of federal law and are exempt from state regulation. The federal law requires the group to be licensed in one state and Vermont has become known as a leading jurisdiction promoting this. Any state can be the state of domicile for a risk retention group. These insurance companies have unique characteristics. A risk retention group can raise capital from policyholders only. It has no means to borrow or raise capital on its own. Each policyholder has joint and several liability for the risks assumed and the losses developed. If premiums collected are inadequate to pay claims each member is assessed. Federal law makes this explicit and the amount of assessment is unlimited. Some groups state they are not assessable, but this is not accurate. The group may not have mandatory assessments but the group will either have to pay "voluntary assessments" to offset the premium inadequacy or have the group enter bankruptcy and have a Federal bankruptcy judge determine what assessment amount is needed. Risk retention groups are basically federally authorized group captives. Once authorized, a risk retention group is free to write business in any state without any state approval or regulation. They have complete freedom of form and rates.

A captive insurance company is owned by one or more

Good Marketing Is NOT...

An article by
Deborah Beckman

Physicians, by nature, are great technicians but lousy marketers. People who sell advertising know this. That is why they try to convince you that a full-page ad is better than half. Two headings are better than one. Four different directories are better than two.

In reality, though, how do most of your patients find you? (If you're not tracking that critical piece of information, you should be.) Not surprisingly, the best leads are through referrals, particularly those from other physicians. Or insurance companies. Or patients. Not the Yellow Pages.

Let's talk about Marketing 101 instead – particularly your message.

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policyholders to fund their risk of loss. This enables the owner to pay itself a premium to fund expected and unanticipated losses. A group captive is a captive owned by more than one policyholder. Captives may be domiciled in a foreign nation or stateside in any state that has a captive insurance regulation available. Some captives may take "unrelated risk". These are exposures to loss that are not part of their owner's risk. They do this to make money and spread risk to improve results for their owners. Sometimes this is done to insure that the IRS will not seek to challenge the deductibility of premiums paid into the captive by its owners.

Trusts are created by state law in some jurisdictions. They operate like a state chartered risk retention group. They are limited to operating in that state and have similar joint and several assessability requirements. Some states have rules on rates, forms and financial requirements but these vary among the states authorizing this approach. Missouri offers a unique trust form named 383Ds that permits physicians to pool risk, premium and losses with almost no financial, regulatory or operational constraints. These operate almost as a trust.

Reciprocals are policyholder owned insurance companies that are operated by an attorney in fact. They can raise no capital except through policyholder assessments and operate much like regular insurance companies. These are state regulated.

All the alternative risk vehicles introduced in this article have been employed in medical professional liability. Hopefully, the reader will now be able to identify and understand how these different approaches work. ■

Bill Ford, CPCU, JD, ARM, AAI, CIC

Bill Ford is a versatile, seasoned, professional insurance leader with extensive accomplishments in developing and operating captives, rent a captive segregated cells, mutuals and risk retention groups. He is an excellent communicator, negotiator and problem resolver who focuses on win-win outcomes for all parties. He has demonstrated talent in creating long-term revenue streams by implementing short and long-term company goals and objectives. Bill received his Bachelors Degree in Political Science from Wake Forest University and his Juris Doctorate from Birmingham School of Law. He can be contacted at 334.549.1578 or at cford1331@yahoo.

Good Marketing is NOT - cont.

In a noisy and competitive marketplace – where everybody looks and sounds the same, doesn't it simply make more sense to speak to your target audience in a language they understand? Remember this one key point and you'll improve your results forever: Good marketing is not about your name and phone number. It's about educating your prospects on what they need to know when looking for a physician in your field. This message then becomes the basis for everything you do and say moving forward: your ads, brochures, Web site, on-hold greeting, the list goes on…

There are three main elements to writing your marketing. In this article, we'll focus on headlines. In future articles, we'll discuss self-tests and content.

Think about how you scan a newspaper for which articles you want to read. Good marketing is no different. The headline, simply stated, is the ad for the ad. It's what makes your prospects decide if they want to invest any more time reading, listening, watching, or not. It is the single most important part of any marketing piece. These headlines should reflect hot buttons: those things you've determined are most important to your customers and prospects.

Think of a typical ad. Many have the company name and phone number front-and-center, in extremely large print. For well-branded practices that have huge exposure in the marketplace, their name might be enough of a draw, but those of you that are smaller have to tackle this differently. So what if, instead, you put compelling headlines in very large print? By taking the time to actually engage your prospects, they'll be happy to spend an extra two seconds to find your contact information. We're not saying to bury it: it's just that your name and phone number are not your value proposition.

Tips When Developing Your Message

Know your competition. Find out how they're marketing themselves and make sure you're communicating a message that's different.

Talk to your customers and prospects. Don't assume you know what they're thinking or feeling. Ask them what's most important and what frustrates them. Find out what they need.

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Be specific. Avoid words that mean absolutely nothing like "professional" and "experienced". Tell your prospects what you do and how you're different. Tell them in a way that instills confidence in their eyes. ■

Deborah Beckman

Deborah Beckman is president of Spirit West Marketing, a consulting firm that crafts targeted messages to help companies drive sales. You can reach her at deborah@spiritwestmarketing.com or 303-799-0839.

■ Style and Grace for the Medical Practice

An article by Jacqueline Whitmore

Whoever said "You never get a second chance to make a first impression" was absolutely right. Patients either consciously or unconsciously make judgments about your professionalism, character, and competence based on first impressions.

A good reputation, a well-known name and a prominent street address are advantageous in the medical profession. However, these are not enough to attract and keep patients happy. If you want to attract and keep patients, you have to offer something different; something that distinguishes you from other physicians. It's the small touches, like practicing good business etiquette, that will set you apart and make it practically impossible to be derailed by competitors.

First impressions begin as soon as your patients arrive at your office. That being the case, the manner in which you and your staff treat your patients can have a real financial impact on your practice. The ability to establish trust and make patients feel comfortable is an asset that money cannot buy. It is a shortcut to success.

The following are some simple, yet forgotten, business principles that establish strong relationships with your patients and keep your credibility intact.

Practice good telephone etiquette.
The quality of your receptionist's voice determines your patients' impression of your medical practice. When answering the phone, your receptionist should speak in a clear and friendly tone. A person who speaks too quickly, slurs his/her words, or uses poor grammar can cast an unprofessional image. Ideally, your office phone should be answered within two or three rings. Additional rigns may cause a patient to hang up in frustration and call another physician. When any staff member answers the phone, it is helpful to state the name of your practice followed by their first and last name. Patients should wait no more than one minute whenever they are put on hold. "May I place you on a brief hold," or "Please hold while I transfer your call," is more polite than being told, "Hang on."

Call your answering service occasionally.
If you rely on an outside company to answer your calls whenever you are away from the office, call the service anonymously from time to time to monitor the level of professionalism you receive. If you are not happy with the way the service operator treats or speaks to you, your patients will not like the same treatment either.

Suit up for success.
Staff members who are friendly, efficient, courteous and attentive put patients at ease and can play a major role in how your medical practice is perceived. Additionally, dressing well is a way of your staff saying, 'I respect you and I respect myself.' Distractions such as long, brightly painted fingernails, messy or dirty hair, excessive make-up or perfume, and dusty, scuffed shoes are sure to turn patients away.

Shake hands with every patient.
A firm handshake establishes an instant connection and conveys your level of confidence. From time to time, you

It takes twenty years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently. - Warren Buffett, stock market investor and business tycoon

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Style and Grace - cont.

may encounter a patient who is elderly or has arthritis and may have a lighter handshake. In that case, match your handshake to his/hers. Shake hands every time you say hello and goodbye to your patients.

Banish barriers.

Whenever you consult with a patient in your office, don't allow your desk to be a barrier between the two of you. For example, don't reach across your desk to shake hands when greeting someone. Instead of sitting at your desk, sit in a chair that's situated next to or directly across from your patient with no obstructions.

Engage in small talk.

When meeting patients, particularly for the first time, briefly engage in some pleasantries before beginning an examination. As you know, patients often feel vulnerable and sometimes intimidated whenever discussing health conditions with a physician. Small talk often breaks the ice and establishes a greater comfort level between you and your patient. Listen for conversation starters. For example, whenever a patient mentions names of family members and special occasions, write this information down in their file. Then whenever you see the patient for a subsequent visit, ask questions such as, "How is your husband, Ken? How did he do in the Boston Marathon?"

Use your patient's name during conversation.

The sweetest sound to any person's ear is his or her own name. To show respect, always address patients by their last name unless they give you permission to use their first name. Instant familiarity isn't always appreciated by some international patients.

Respect your patient's time.

Just as your time is valuable, a patient's time is equally so. If you are running late, ask a nurse or receptionist to let the patient know before or upon his arrival. This will allow the patient to make phone calls or reschedule his/her appointments accordingly.

Keep your word.

If you tell a patient that you or your staff will do something for her, like call in a prescription or call another physician, follow through. If you tell a patient that you will call her back, do so in a timely manner. Phone calls should be returned within 24 hours, unless you say otherwise.

Promise only what you can deliver.

Your credibility is based on your ability to be honest in all situations. As you well know, if your patient has expectations you cannot fulfill, it is best to explain what you can do instead of getting their hopes up by painting an unrealistic picture. Do not hesitate to recommend someone who can help with medical needs outside of your area or expertise. Remember, a thriving practice is built on referrals from your patients, peers and other physicians. When you maintain a stellar professional reputation and practice good business etiquette, you increase your credibility and profitability. ■

Jacqueline Whitmore

Jacqueline Whitmore is an international etiquette expert, the founder of The Protocol School of Palm Beach, Florida and the author of Business Class: Etiquette Essentials for Success at Work (St. Martin's Press, $19.95). She conducts seminars in business etiquette and international protocol.

As one of the most widely quoted etiquette experts in the U.S., Jacqueline's advice is sought by numerous newspapers and magazines including The New York Times, USA Today, Fortune, Time, Glamour, and Marie Claire. She has appeared as a guest on ABC's 20/20, FOX News, MSNBC, and CNN.

To subscribe to Jacqueline's free e-newsletter, visit her web site at www.etiquetteexpert.com or for more information on her seminars, contact her at (561) 586-9026 or e-mail her at info@etiquetteexpert.com.

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DID YOU KNOW?

Colorado Medical Board Policy – It is the policy of the Board of Medical Examiners that staff will subpoena from the plaintiff's attorney any available expert witness reports and other pertinent records in all medical malpractice cases reported to the Board wherein the settlement or judgment was $250,000 or more. The Inquiry Panels have the discretion to subpoena records in other malpractice cases involving lesser settlements or judgments on a case-by-case basis.

NEWS NOTES

- **NCRIC** National Capital Reciprocal Insurance Company, a mid-Atlantic carrier formed in 1980, insuring more than 4,000 physicians, is now a wholly owned subsidiary of ProAssurance Corporation.

- **MedPro** Medical Protective Corporation, the oldest and second largest admitted primary medical professional liability insurer, has become a member of the Berkshire Hathaway group of businesses. Medical Protective has recently been upgraded to "A+" by A.M. Best.

- **PIC Wisconsin** Established in 1986 by the Wisconsin Medical Society, the state's largest provider of medical liability insurance is slated to be acquired in approximately mid-2006 by ProAssurance, the fourth largest medical liability carrier in the country.