

Insurance Report



A Letter from John Keane

Welcome to another edition of the Keane Insurance Newsletter.

As you will see, we have focused on two main issues - the likelihood of rate increases for the upcoming year, and recent tax law changes and how they might affect you and your practice.

We are seeing signs of major increases for medical malpractice rates in the next few months. Several carriers have left the market altogether, and those who remain behind intend to raise costs significantly.

As the largest agency of our type in Missouri and Illinois, we can guarantee access to a variety of carriers, which will help ensure that you gain the lowest prices possible.

One of our representatives will be contacting you soon to review your coverage and offer quotes for the coming year. We encourage you to address your situation as early as possible to leave us enough time to arrange the most effective solution for your needs.

Once again, it is our honor and pleasure to work on your behalf.

Sincerely,

John Keane
President

Malpractice Rates to Increase

Insurers Poised to Boost Prices

Several professional liability insurers, including some with a large market presence in Missouri and Illinois, have announced increases for the upcoming year.

Some of the rate increases are expected to reach as much as 40 percent, according to industry sources.

"Most of the companies are raising rates, while others have decided to eliminate their lines of medical malpractice altogether," says John Keane. "The laws of supply and demand have there-

fore caused rates to increase, in some cases, rather dramatically."

The Keane Insurance Group has access to many carriers, according to John, and can help physicians find the best possible coverage.

Physicians and medical groups are encouraged to contact their Keane Insurance representative as soon as possible so the agency can review your situation and solicit quotes from a variety of carriers.

(see "Rate Increases" on page 2)

The Ever-Changing Regulatory Environment

Physicians Need Understanding of New Medical Marketplace

By: Gay Lynn Rice
Attorney at Law
Seibel & Eckenrode, P.C.

Health care today has become big business and very complicated for the majority of physicians. Radical changes to the health care system resulting in the reduction of revenues and increasing regulatory requirements require that physicians reevaluate their priorities and the dynamics of their medical practice. To succeed in today's health care environment,



employ an understanding of the new marketplace to reposition themselves in order to more successfully compete and meet the demands of an ever-changing regulatory environment.

Physicians need to find new and different ways to pursue the practice of medicine and related businesses. Quality of care is only one element in having a successful practice. Physicians must also

Physicians have a significant competitive advantage in their license to practice medicine. What is needed is business planning by physicians in order to leverage this

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("Rate Increases" cont. from page 1)

A look back – rates keep pace with inflation for past decade

"It's important to remember that, while rates have increased, they are still at the same levels – or even lower – than they were 10 years ago for several specialties," says John. "For the most part, medical malpractice rates have grown at less than the rate of inflation for the better part of the past decade." ■

DATE	SPECIALTY	PREMIUM
1991	General Surgery	\$28,553
	Obstetrics	\$46,046
	Family Practice, Class I	\$4,450
2001	General Surgery	\$23,000
	Obstetrics	\$30,000
	Family Practice, Class I	\$6,372



THE FINANCIAL CORNER

by David S. Obedin
Renaissance Financial, Inc.

The Impact of Economic Growth & Tax Reform Act of 2001 and Your Practice

While much ink has been spilled in the analysis of this year's tax reform, we feel that some of the most salient points have been glossed over. These points include the following: increase pension contribution limits, limited tax free distributions from section 529 plans and de-unifying of the lifetime transfer tax from the gift tax limits.

Qualified Plan Limits

Increasing qualified plan limits are welcome news for many of our clients. Typically physicians have maintained two qualified plans, a profit sharing plan and a money purchase pension plan, in an effort to defer the maximum allowable under Internal Revenue Service Rules. As of 2002, employers can defer up to \$40,000 or 25% of salary (whichever is achieved first) and up to \$11,000 or 15% of salary can be allocated to a 401(K) plan. Therefore, employers can defer more, reduce administration cost and allow for employee deferrals (previously discouraged due to non-discrimination rules).

Next on the list is the increased ability to create split interest gifts via section 529 plans. What does this mean? Great gifts are from grandparents to grandchildren, because they skip two layers of estate taxation. The prob-

lem is often one of control. A split interest gift is one that the grantor (grandparent) can maintain control of the gift while still skipping two layers of gift and estate taxation.

Furthermore, the 529 plans allow for contributions to grow tax deferred and distribute tax-free for qualified tuition expenses. The long term ramifications is that the money held in a 529 plan is creditor proof, has tax-deferred growth, the grantor can change the beneficiary at any time (significantly different than custodial accounts) and the contribution may be tax-deductible on your state tax return (please check with your tax advisor for deductibility).

Last is the de-unifying of the lifetime transfer tax from the gift tax limits. This is significant because the Economic Growth & Tax Reform Act changes sunset in year 2010 and estate taxes are currently schedule to phase-out in 2010. Gift tax rates (on gifts greater than \$10,000 per grantor per beneficiary) are still subject to a 50% tax, even in 2010. This means that techniques used to discount the present value of a gift to your loved ones will take on increasing importance in the next ten years.

While this column is deliberately topical in nature, we are encouraging our clients to be proactive in order to get the maximum efficiency out of the changes to the law. ■



Education Tax Incentives

Qualified Tuition Plans Are Now Terrific

by Craig Campbell, C.P.A.
Anders, Minkler & Diehl, LLP

Until now, so-called qualified state tuition programs (also called QSTPs and Section 529 plans) were pretty good deals. These state-sponsored arrangements delivered tax-deferral advantages until payouts were taken to cover eligible college costs. And earnings included in those payouts were taxed at the student's low rate, rather than at the presumably much higher rate applicable to the person who funded the account (typically the parent).

The new law makes these programs a great deal, rather than just a good one. Effective next year, they will be renamed as "qualified tuition programs" (QTPs). More importantly, payouts to cover eligible higher education expenses will become **tax-free**. Obviously, tax-free is much better than tax-deferred. This change will apply equally to new and existing accounts. So, QTPs have suddenly become a terrific opportunity for parents who can afford to start college savings programs while their children are still fairly young. Simply put, the generous tax advantages mean much less need be taken out of your financial hide to fully provide for your children's future college costs.

Under the new law, you will also be able to transfer money tax-free from one QTP account into another QTP account set up for the same beneficiary. So, if you decide another program is better than the one you're in, you can effectively make a tax-free rollover into the better program. Similarly, you can transfer money from one family member's QTP account tax-free into another family member's account within the same state-sponsored program or another state's program. Starting next

year, "family members" will include first cousins of the account beneficiary.

This is all great news, but perhaps the nicest thing about QTPs is they are available to all taxpayers, regardless of how high their income.

Observation: A lot of taxpayers are going to have the option of contributing to either a QTP or an Education IRA (or both, even though

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with the latter the ability to contribute begins to phase out once adjusted gross income reaches \$95,000 for singles or \$190,000 on joint returns). So which should you choose?

As a result of the changes discussed earlier, they both offer the opportunity to accumulate earnings tax-free. However, beyond that, several differences exist. For example, if there's a chance your family might qualify for financial aid, a QTP looks more appealing because it counts as the donor's asset in the financial aid formula while an Education IRA is considered the student's asset. (Student assets count against you more heavily in the formula.)

QTPs also have the advantage when it comes to funding because the annual limit on contributing to an Education IRA is still only \$2,000 (beginning next

year), but up to \$50,000 can be stuffed gift-tax-free into a QTP in one year if you elect to spread that amount over a five-year period.

Education IRAs Are Now Viable Savings Vehicles

Until now, most commentators were critical of Education IRAs, mainly because of the skimpy \$500 annual limit on contributions. In many cases, account management fees ate up a good chunk of the investment returns because so little money could be put into play with these accounts.

Thankfully, that's no longer the case. Starting next year, you can contribute up to \$2,000 annually to an Education IRA. If you have several children (or grandchildren), you can contribute that much to individual accounts set up to benefit each. So, if you have three kids, you can sock away up to \$6,000 every year. Account earnings are allowed to build up tax-free and can then be withdrawn tax-free to pay for the account beneficiary's college expenses. Of course, the contributions themselves are nondeductible (just like contributions to Roth IRAs).

Even better, you'll be able to take tax-free Education IRA withdrawals to pay for elementary and secondary school (K-12) expenses starting in 2002. Eligible expenses will include tuition and fees to attend private and religious K-12 schools as well as costs to attend public K-12 schools.

If you have questions about any of the provisions explained in this article or any questions at all about the new tax law in general, please contact Craig R. Campbell, CPA of Anders Minkler & Diehl LLP at 314-655-5500. ■

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advantage to create a stronger environment for treating their patients and increase the financial returns for their practices.

While the process for developing a business plan may vary depending on the available time and resources and the business savvy and specific goals of the participants, a successful approach to business planning generally includes the following four factors:

- Identifying the clinical and business interests and concerns of the participating physicians.
- Adapting the desired clinical and business programs to meet market demands and opportunities and the regulatory restrictions and requirements.
- Reviewing the relevant legal issues.
- Determining the most fitting corporate and operating structures and programs.

While the business interests and concerns of the physician decision-makers should be given first priority in

the planning process, it is necessary to recognize that applicable legal requirements and restrictions may affect the available business options. Generally the applicable legal requirements and restrictions do not totally prohibit the development and operation of a “legitimate” healthcare business, but they can and do create certain concerns and significant limitations and can impose substantial civil and criminal penalties for non-compliance.

Facts are all important to a legal analysis. One potential business structure analyzed against applicable legal requirements may result in a prohibited outcome while another may create a business arrangement that is acceptable or tolerable. Generally, there are various ways to achieve the same result and if one structure or contractual arrangement creates a problem, some modification or an alternative structure may eliminate or avoid the legal problem. The following are common legal issues that arise in the development of a business arrangement.

- Antitrust
- Fraud and abuse
- Stark physician anti-referral legislation
- Medicare/Medicaid reimbursement
- ERISA - affiliated service groups
- Insurance Regulation - Business of Insurance
- General state and federal health regulatory requirements
- Corporate practice of medicine/fee splitting
- Certificate of Need
- Tax-business and non-profit

Health care consultants and legal counsel with relevant expertise can significantly assist physicians in having a successful business planning process.

Gay Lynn Rice has recently joined the practice of Seibel & Eckenrode as a health care transactional and regulatory compliance counsel.

THE KEANE INSURANCE REPORT
Volume 5, Issue 2 • October 2001

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10777 Sunset Office Drive
Suite 310
St. Louis, MO 63127
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