

The  
Keane

# INSURANCE

Volume 7, Issue 3  
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# REPORT

News and Information for  
Medical Professionals  
Concerned About the Rising  
Costs of Malpractice Insurance

S E P T E M B E R 2 0 0 3

## Letter from Our Leader



Welcome to another edition of the Keane Insurance newsletter.

In this issue, you'll see more information on Missouri Physicians Mutual, the new company writing medical malpractice insurance in Missouri. The Keane Insurance Group has been named the exclusive broker for MPM, and we want you to have as much information as possible about this exciting new market.

In addition, we have an article on some of the options physicians are using to shield their assets. We also have an article from a new contributor, Steven Strout, the president of a local consulting firm that specializes in the management of medical practices. Steven brings many years of experience, and we are happy he has contributed to this issue. Finally, our Legal Services column is written by Don Carmody, the local attorney who represents MPM.

The medical malpractice arena continues to bring new challenges almost every day. As the largest broker of malpractice insurance in the Midwest, we are uniquely positioned to help you find the best possible coverage at the best possible price. Please don't hesitate to reach out for our services.

As always, we sincerely appreciate your business. Please call me directly with any issues or concerns.

Warm regards,

John Keane  
Keane Insurance Group

## MISSOURI PHYSICIANS MUTUAL

### **MPM Continues Rapid Growth** NEW MALPRACTICE CARRIER TARGETED AT MISSOURI DOCTORS

**A** new malpractice insurance carrier owned exclusively by Missouri doctors has written coverage for more than 500 physicians and continues to grow at a rapid pace.

Officially chartered for business in February of 2003, Missouri Physicians Mutual is a mutually-accessible not-for-profit organization owned by the policyholders – not by shareholders – and therefore not governed by out-of-state insurance companies with large overhead and losses.

Owned by Missouri physicians, MPM insures only Missouri physicians, thereby keeping rates down by basing premiums only on Missouri physician loss ratios.

Since MPM's inception just six months ago, the company has collected more than \$10 million in premiums.

"In establishing MPM, we applied to the Missouri Department of Insurance, and we spoke with the Governor's office regarding the medical malpractice crisis in Missouri and how Missouri Physicians Mutual could help solve it," says Tim Trout, Managing Director of MPM.

**MPM is trying to  
address skyrocketing  
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to the Missouri market**

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MPM-covered physicians are located throughout the state, including Branson, Columbia, Jefferson City, Kansas City, Rolla and St. Louis.

“MPM has formed an exclusive alliance with the prestigious Keane Insurance Group and their staff of professionals because they are the largest, most reputable broker of medical liability insurance in the state,” says Trout. “Together, we bring you more than 200 years of cumulative insurance industry experience.



“Doctors are choosing MPM because they want a say in their premium rates,” says Trout. “They are tired of paying for out-of-states losses, and having premiums increase by 40, 60 and even 80 per-

cent by existing insurers.” Says John Keane: “A large percentage of our clients are reacting very favorably to MPM. Even if they opt for coverage elsewhere, they are encouraged that MPM is trying to address skyrocketing premiums and trying to bring back some stability to the Missouri market.”

Contact John or your Keane Insurance representative for more information on Missouri Physicians Mutual, or visit our website at [www.keanegroup.com](http://www.keanegroup.com).



Steven R. Stout  
President, KASS-MSO, Inc.

## PRACTICE MANAGEMENT

### Make More Money in Private Practice

Often times obvious, many times overlooked, these medical practice disciplines represent the best advice our company has to offer physicians who are on a quest for greater private practice income.

**Invest in quality office technology and support services.** Your billing system is your revenue production center. Your bookkeeping system is your expense management center. Don't skimp on systems and training, and be sure to file electronic claims daily.

**Regularly review accounts receivable.** Poorly managed accounts receivable and lack of payment follow-up may be the greatest causes of income decline.

**Become an expert coder.** Invest enough time to learn how CPT, HCPCS and ICDN coding work. Unfortunately, in many practices, this responsibility is placed in the hands of untrained, hourly staff.

**Implement money management controls.** It is imperative to have an internal process that accounts for every dollar that flows through the medical practice.

**Require co-payments before services are rendered.** The cost of repeated patient mailers to collect these small amounts, combined with the probability that some patients will not remit payment, can result in significant reduction in physician income.

**Request partial payments on past-due accounts.** As with co-payments, request patients with past-due balances to make a good faith payment, even if only a nominal amount (e.g., \$5), prior to receiving additional services.

**Do not sign agreements with payers who do not reveal their fee schedules.** Rather, fill your day with patient appoint-

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## THE FINANCIAL CORNER

# A prescription for the proverbial lawsuit!

David Obedin  
Renaissance Financial, Inc.

With the myriad of changes in the medical malpractice arena many of our clients are asking us to spend some energy on creditors and asset protection from creditors. While the rules and opportunities vary on a state-by-state basis, this column will attempt to outline some of the avenues that physicians are utilizing.

The simplest and most common form of ownership which may offer creditor protection in some states is holding *assets in joint tenancy* with one's spouse. Either spouse is able to transact business on the particular asset, as both parties own the asset in question. While simple for transacting business this method of planning puts additional burden on one's estate planning, if the ultimate overriding goal is to minimize estate and gift taxes when both husband and wife pass away.

If the deceased spouse's interest in all assets is transferred directly to the surviving spouse (by will or by simply removing the name of the deceased from the account title), then the deceased spouse's Unified Credit Equivalent Exemption (currently \$1,000,000 in 2003) will be forfeited and all assets in excess of \$1,000,000 in the surviving spouse's estate may

be subject to estate taxes.

A second ownership solution proposed is to have one's spouse own all assets in their name and keep nothing in the physician's name. While attractive from the perspective of a potential lawsuit, this solution might put undue strain on a relationship in the case of divorce or if the spouse is also in a profession with a similarly high risk of being sued.

The next level of planning complexity that we see clients implement is the use of an *Irrevocable Life Insurance Trust (ILIT)*. The ILIT is funded either by lump sum gifts or via annual gifts to the Trust. If the grantor (creator) or the ILIT funds the trust on an annual basis, the gifts are limited to \$11,000 per year, per grantor per beneficiary (for example: if a single parent has two children, then their annual gift limit is 2 times \$11,000 or \$22,000).

A *tax-qualified retirement plan* is another vehicle that may allow one to shelter assets from a potential creditor. While the asset grows tax-deferred it is subject to creditor risk via a charging order (annual filing for garnishment of wages or assets). If the plan is a Defined Contribution Plan, then the maximum annual contribution is limited to 25% of pay not to exceed

\$40,000 per year; while a Defined Benefit Plan typically allows much higher annual contributions.

As the total value of assets at risk increase a *Family Limited Partnership (FLP)* may become a more viable option than simply holding the assets in joint tenancy. The FLP allows one or more managing members to make decisions on how to control the assets held inside the FLP.

While these methods of avoiding the forfeiture of personal assets to a judgment listed above is summary of potential steps available to physicians, be advised that in most states if assets are transferred in defraud of creditors, they can still be attached in a lawsuit. If a group or individual physician chooses to move forward with any or all of these ideas, they should have a comprehensive plan, reviewed by their advisors to take their specific needs into account instead of a one-size fits all approach – this article is not meant to replace direct contact with a qualified advisor.

*Securities and investment advisory services offered through Securian Financial Services, Inc., member NASD/SIPC. DOFU 09/03. 1142-2003-8841.*

## Practice Management (continued)

ments that you know will result in fair payment for services rendered.

Do not fail to maximize your income potential because of unwillingness to admit to, or take action on, deficiencies that exist within your medical practice. If you are uncertain how to make such an assessment, there are companies that specialize in physician practice management that can assist you.

*Steven Stout is co-founder and co-owner of KASS-MSO, Inc., a management services organization for medical practices, small businesses and non-profit organizations. He previously served as chairman of the board and CEO of Deaconess Health System following its acquisition by Tenet Healthcare and as chief operating officer for Tenet Healthcare.*

# Employee Spotlight

Brian Dames

Director of Business Development



The Keane Insurance Employee Spotlight falls on Brian Dames, our Director of Business Development.

Brian focuses on working with the company's producers to develop sales plans that ensure complete coverage of Keane's available markets.

"We have a great group of people at Keane, and I'm very excited to be here," says Brian.

Prior to joining Keane, Brian spent seven years in Phoenix, AZ, where he acted as sales manager for a distributor/rep company selling equipment and materials used in the manufacturing of semiconductors.

Brian and his wife, Dana, have three children, Caroline, 10, Olivia, 8, and Jake, 4, and enjoy a wide variety of outdoor activities, including biking, camping, and swimming.

## THE JOINT UNDERWRITING ASSOCIATION

By Don Carmody, Attorney  
Carmody MacDonald PC

Although Governor Holden and other elected officials appear to be constantly debating the various aspects of tort reform, little progress has actually been made and a final resolution does not appear to be imminent. In what appears to be an effort to avoid criticism, the Governor prompted Scott Lakin, the Director of Department of Insurance to hold a public hearing on the establishment of a Joint Underwriting Association (JUA). The law permits the Director to establish such an association if he finds, after a public hearing, that medical malpractice coverage is not reasonably available for some health care providers in Missouri. The JUA would actually provide insurance for physicians who could not find actuarially sound insurance coverage elsewhere.

The public hearing was held in Jefferson City in July of this year and produced testimony from a variety of insurance carriers, actuaries, and other disciplines.

Timothy Trout, the Managing Officer of Missouri Physicians Mutual, testified that while there was availability of coverage, the problem was simply a pricing issue and the JUA could not solve this problem. He also pointed out that tort reform may be helpful but the carriers seem to have decided

to limit their financial exposure.

In July, 2003, Director Lakin authorized the establishment of a JUA but indicated there needed to be a multitude of changes in the current law before it would be of any real effect. He requested the legislators to pass a bill which would include the elimination of the double premium payment for the first year coverage, expand the coverage time period so there can be retroactive coverage, and provide for the board to consist of physicians as well as other professions.

Several features of the JUA should be of major concern. The first is that it will serve only a fraction of the state's doctors which, as Lakin's report states, would insure only one percent or less of the State licenses. The second, and perhaps the most difficult, is that the state wants this to be a carrier of last resort, i.e., it would only insure those physicians who could not find insurance elsewhere.

With the initial double premium and the requirement that premiums be actuarially sound, the JUA may not serve any real purpose or be of any value other than to create the belief that the State is making some effort to ease the medical malpractice situation.



10777 Sunset Office Drive  
Suite 310  
St. Louis, MO 63127  
Phone 314/966-7733  
1-800-966-7731

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