A PHYSICIAN’S GUIDE TO
Medical Malpractice Insurance
Letter from MMA Leaders

A Changing Landscape

For years, physicians in Minnesota have experienced a relatively stable medical liability environment. While it is true that there have been exceptions, rates have been low, and jury awards and payouts have been reasonable compared to other states across the country.

In other words, physicians in Minnesota have had it pretty good.

However, the medical liability marketplace in Minnesota is beginning to change. Physicians, clinics and hospitals now have more choices, which is good but can also be intimidating. How do you know who will be the best choice for your medical malpractice insurance?

That’s the thinking behind the publication in your hands. As more medical malpractice companies market to Minnesota physicians and practices, we wanted to provide our members with a better sense of the current landscape - who’s out there and what do they offer.

In the pages that follow, we feature three of the largest newcomers to Minnesota as a way of introduction to our members, the physicians of Minnesota: There are many choices for you and your practice.

We hope you find value in this special issue. Malpractice is always at the back of our minds. With attention to effective communication with patients and systems to create safe care coupled with the right insurance carrier it will stay there and not take center stage.

David Agerter, MD
MMA President

Douglas Wood, MD
MMA Board Chair

Robert Meiches, MD
MMA CEO
MINNESOTA’S Malpractice Climate

From an outside perspective, Minnesota is a great place to practice medicine.

Consider the following medical environment metrics on Minnesota from Wallet Hub, a financial services company that publishes studies on a variety of issues:

• No. 1 for “Medical Environment”
• No. 2 in “2017’s Best & Worst States for Doctors”
• No. 2 for “Opportunity and Competition”

Using a variety of data sources and six individual metrics, Minnesota earned its high rankings from Wallet Hub researchers in large part due to factors including:

• One of the “Least Punitive State Medical Boards” — only South Carolina and the District of Columbia had less punitive boards.
• The second lowest rates for annual malpractice liability insurance in the country — only Wisconsin physicians pay less.

The Tort Reform Paradox

Minnesota physicians who’ve had claims filed against them are often passionate about lobbying for tort reform legislation but others question whether the potential rewards are worth what could turn into an uphill battle.

In a 2014 article published in *Emergency Physicians Monthly*, Greg Roslund, MD, examined all the legislative actions taken around the nation and their effect on reducing malpractice claims and payments. He wondered: “What is more powerful, state laws or state culture?”

Roslund concluded that “state culture” played a large role. “Minnesota is devoid of tort reform, yet, physicians pay some of the lowest malpractice premiums in the country,” he wrote. “I once asked a Minneapolis colleague why this is so, and he replied, ‘People here don’t sue. Some call it Minnesota Nice.’ On the other hand, while Florida has repeatedly tried to improve its medical liability system with reforms such as caps and expert witness reform, the state’s doctors actually pay some of the highest premiums in the country. It all boils down to state culture.”

The State of Tort Reform in Minnesota

While a cap on non-economic damages is the gold standard of liability reform to many physicians, Minnesota isn’t among the 33 states that have enacted one.

In 1986, the Minnesota Legislature enacted a statute requiring an *Affidavit of Expert Review* rather than a cap on non-economic damages.

Minnesota now requires an affidavit from a qualified medical expert in order to initiate a malpractice claim. That expert is
required to detail at trial the way in which the treatment provided deviated from the standard of care in treating the patient. As a result, frivolous suits have not fared well in Minnesota because judges are required to dismiss them.

The reasoning of the anti-cap camp (not entirely made up of plaintiff’s attorneys) is that if the case is not frivolous and the plaintiff prevails, then higher damages are often justified — and will spur physicians or institutions to address similar issues in their standards of care.

**Creative Alternatives to Tort Reform**

After demonstrating that tort reform has led to a consistent reduction in the number of malpractice claims filed, a 2014 Stanford study published in the *New England Journal of Medicine* concluded that the current system is “mediocre at best” as either a compensation system to patients or deterrent to substandard care.

The Stanford researchers suggest a greater focus on creative initiatives such as Communication and Resolution Systems, Safe Harbor Laws and Judge-Directed Negotiations. They believe these alternatives to traditional tort reform may make it possible to fix some of the system’s deeper failings.

The University of Michigan Health System has pioneered a Communication and Resolution System with an approach researchers summarize as “apologize and learn when we’re wrong, explain and vigorously defend when we’re right, and view court as a last resort.” Since implementing the program in 2004, the university notes that:

- Malpractice claims have dropped by 36 percent
- Attorney and patient compensation costs have dropped by 59 percent
- Opening-to-closing times for claims are dramatically shorter, down to about 10 months from more than 20 months in 2001.

The Stanford researchers suggest that the current debate over caps and other liability reforms: “sap political energy and divert attention from alternatives that may achieve what caps will never deliver: a more just, reliable, and accessible liability that promotes patient safety.”

To many physicians, the malpractice climate in Minnesota will never be ideal until the Legislature enacts caps on non-economic damages — but when deciding how hard to press for that reform, it’s important to keep in mind that Minnesota physicians practice in an environment where frivolous lawsuits rarely progress and the state’s health system performance routinely receives top rankings from the Commonwealth Fund’s nationwide scorecards.

**When it comes to medical malpractice and whether you’ll be sued, it’s generally a matter of when, not if.**

Most physicians can expect to face at least one malpractice claim during a 30-year career. In fact, by the time physicians reach 45 years old, 36 percent in low-risk specialties are likely to have had at least one malpractice claim, compared to 88 percent of those in high-risk categories, such as neurosurgery, according to a 2014 article in the *New England Journal of Medicine (NEJM).*

The good news is the overall rate of medical malpractice claims paid on behalf of all physicians declined by 55.7 percent from 1992 to 2014 — with considerable variation by specialty according to a study published in *JAMA’s Internal Medicine* in March 2017. For example, pediatricians had the largest decline (75.8 percent); cardiologists had the smallest (13.5 percent).

A 10-year study published last fall in *NEJM* evaluating 66,426

**MMA: Pioneering Reform for Nearly 100 Years**

The MMA has played a vital and ongoing role in helping physicians lobby for needed reforms. Highlights include: proposing and helping enact Minnesota’s first malpractice legislation in 1925, and in 1986 helping pass legislation that prevents frivolous lawsuits.
Who Gets Sued — and Why?

paid claims against 54,099 physicians reported to the NPDB (National Practitioner Data Bank). The study found that:

- Approximately 1 percent of all physicians accounted for 32 percent of paid claims.
- Physicians who had had at least three paid claims accounted for 12 percent of all claims.
- Statistics show that male physicians are at greater risk than their female peers. Older physicians also tend to be at greater risk. Risks also varied by specialty: the risk of facing a claim ranged annually by specialty from 19.1 percent in neurosurgery and 18.9 percent in thoracic—cardiovascular surgery to 3.1 percent in pediatrics and 2.6 percent in psychiatry.

“Many, but not all, malpractice claims are avoidable,” notes Gerald B. Hickson, MD, senior vice president for quality, safety and risk prevention at the Vanderbilt Center for Patient and Professional Advocacy. “For all of the complaints that physicians have about the unreliability of the tort system, we also have to consider our contributions to what sometimes becomes an adversarial ‘solution’ to human pain and what positive role our profession might play in promoting change.”

Two Under-Utilized Methods for Reducing Risk

Improving Communication Skills: A 2011 article published in the NEJM reviewed research on physician—patient communication and found that physicians are often completely unaware that their patients are dissatisfied with the way they communicate. Yet, communication breakdowns or perceived lack of caring are the primary reasons patients cited as justification for taking legal action.

A 2005 study published in the Journal of Bone Joint Surgery found that 75 percent of orthopedic surgeons surveyed believed that they communicated satisfactorily with their patients. But, only 21 percent of their patients reported satisfactory communication with their physicians.

Meanwhile, a 2015 study published in the Annals of Plastic Surgery found that unsolicited patient complaints can serve as a powerful predictor of increased risk of malpractice claims among reconstructive plastic surgeons — who are already at higher risk. The study also suggested that “targeted interventions to decrease patient complaints may improve patient satisfaction and reduce malpractice claims and risk management activity.”

Reporting Unprofessional Behavior: Unprofessional behavior puts patient safety at risk and institutions at even higher risk for malpractice suits. Yet, it remains underreported. A 2017 study published in BMJ Quality and Safety indicates that interns and residents who commonly observed unprofessional behavior were less likely to speak up about it compared with traditional safety threats even when they perceived high potential for patient harm. Fear of conflict was the most commonly cited barrier to reporting.

Avoiding conflict today can increase the likelihood your institution or practice may be sued down the road.

By improving communication and not tolerating unprofessional behavior, physicians and practices should be able to reduce risk and decrease malpractice claims.
According to a 2016 report from the Minnesota Department of Commerce, $78 million in medical malpractice premiums were written in Minnesota the previous year by the 83 insurance companies listed below.

1. ACADEMIC MEDICAL PROFESSIONALS INSURANCE
2. ACE AMER INSURANCE COMPANY
3. ADMIRAL INSURANCE COMPANY
4. AFFILIATES INS RECIP A RRG
5. AIX SPECIALTY INS CO
6. AMERICAN ALT INS CORP
7. AMERICAN ASSOC OF OTHODONTISTS RRG
8. AMERICAN CAS CO OF READING PA
9. AMERICAN EXCESS INS EXCH RRG
10. AMERICAN HOME ASSUR CO
11. AMERICAN INS CO
12. ALLIED PROFESSIONALS INS CO RRG
13. ALLIED WORLD ASSUR CO US INC
14. ALLIED WORLD SPECIALTY INS CO
15. ALLIED WORLD SURPLUS LINES INS CO
16. ASPEN SPECIALTY INS CO
17. ATLANTIC SPECIALTY INS CO
18. ARCH SPECIALTY INS CO
19. BEAZLEY INS CO INC
20. BERKLEY ASSUR CO
21. CATLIN SPECIALTY INS CO
22. CAPITOL IND CORP
23. CAPITOL SPECIALTY INS CORP
24. CHICAGO INS CO
25. CHURCH MUT INS CO
26. CINCINNATI CAS CO
27. THE CINCINNATI IND CO
28. CINCINNATI INS CO
29. THE CINCINNATI SPECIALTY UNDERWRITER
30. COLONY INS CO
31. CONTINENTAL CAS CO
32. COLUMBIA CAS CO
33. DENTISTS INS CO
34. DOCTORS CO AN INTERINS EXCH
35. DOCTORS & SURGEONS NATL RRG INC
36. ENDURANCE AMER SPECIALTY INS CO
37. EVANSTON INS CO
38. FAIR AMER INS & REINS CO
39. FORTRESS INS CO
40. GENERAL STAR IND CO
41. GRANITE STATE INS CO
42. GREAT AMER E&S INS CO
43. GREEN HILLS INS CO RRG
44. GREAT DIVIDE INS CO
45. HALLMARK SPECIALTY INS CO
46. HEALTH CARE INDUSTRY LIAB RECIP INS
47. HOMELAND INS CO OF NY
48. HUDSON INS CO
49. HUDSON SPECIALTY INS CO
50. ILLINOIS UNION INS CO
51. INTERSTATE FIRE & CAS CO
52. IRONSHORE SPECIALTY INS CO
53. JAMES RIVER INS CO
54. KINSALE INS CO
55. LANDMARK AMER INS CO
56. LEXINGTON INS CO
57. LIBERTY SURPLUS INS CORP
58. LIBERTY INS UNDERWRITERS INC
59. MEDICUS INS CO
60. MEDICAL PROTECTOR CO (Now MedPro)
61. MHA INS CO (Now Coverys)
62. MMC INS INC
63. MT HAWLEY INS CO
64. NATIONAL GUARDIAN RRG INC
65. NATIONAL FIRE & MARINE INS CO
66. NATIONAL UNION FIRE INS CO OF PITTS
67. NAUTILUS INS CO
68. NCMIC INS CO
69. OMS NATL INS CO RRG
70. OPTHALMIC MUT INS CO RRG
71. PACO ASSUR CO INC
72. PHARMACISTS MUT INS CO
73. PODIATRY INS CO OF AMER
74. PREFERRED PROFESSIONAL INS CO
75. PROASSURANCE CAS CO
76. PROASSURANCE SPECIALTY INS CO
77. PROFESSIONAL SOLUTIONS INS CO
78. PROSELECT INS CO
79. STARSTONE SPECIALTY INS CO
80. STATE FARM FIRE & CAS CO
81. STEADFAST INS CO
82. SUNLAND RRG INC
83. WESTERN WORLD INS CO
10,000 voices strong

I belong...
“MMA provides valuable resources beyond what I receive from my specialty society and group practice.” – JANETTE STRAHY, MD

I belong...
“MMA’s advocacy efforts give physicians a strong voice at the state Capitol, to prevent decisions that affect our practices from being made by non-medical groups.” – MAYA BABU, MD

I belong...
“Because MMA gives me an opportunity to connect with other physicians and get involved in ways that can positively affect medicine in Minnesota.” – DOUGLAS WOOD, MD

Is one of them yours?

Minnesota physicians are stronger together.
Join today and help define medicine’s future.

mnmed.org/membership
As the nation’s first provider of health care liability insurance, MedPro Group (MedPro) has a long heritage of protecting the assets and reputations of physicians.

MedPro’s history stretches back to 1899, when its predecessor, the Physicians’ Guarantee Company, was founded by A.P. Buchman, MD, in Fort Wayne, Indiana. Still headquartered in Fort Wayne, MedPro now has employees coast to coast.

For more than a century, MedPro has provided unrivaled service and dedication to the health care community. It is now a national medical professional liability insurance leader — providing customized insurance, claims and patient safety and risk solutions for physicians and surgeons, as well as hospitals, and other health care facilities and providers.

Berkshire Hathaway’s acquisition of MedPro in 2005 brought even greater resources to support MedPro’s mission and strengthened its ability to protect health care providers. All insurance products are administered by MedPro Group — the marketing name used to refer to the insurance operations of The Medical Protective Company, Princeton Insurance Company, PLICO, Inc. and MedPro RRG Risk Retention Group. In addition, all products are underwritten by these and other Berkshire Hathaway affiliates, all of which have earned the highest financial strength ratings of A++ from A.M. Best. MedPro clients have peace of mind.
knowing that the company has billions in MedPro assets for which to defend and pay claims.

MedPro uses its expertise to produce the right results for its health care providers — resulting in a 99 percent claims customer satisfaction rate. MedPro works relentlessly to prevent claims and, as needed, provide vigorous defense in court when claims go to trial. In fact, 95 percent of claims are closed without going to trial. MedPro customers can be assured that a claim will not be settled without their consent.

The experts at MedPro offer deep knowledge of the industry. MedPro’s claims managers average 24 years of experience, while patient safety and clinical risk managers average 25 years. This experience translates to a high quality of service to help physicians and health care providers meet the challenges of the industry — and deliver positive outcomes.

While history and experience are its bedrock, MedPro’s success also lies in its continuous growth and ability to provide forward-thinking solutions to help health care providers stay ahead of the game in today’s dynamic, ever-changing environment. These include state-of-the-art patient safety and risk management solutions. For example, MedPro’s Advisory Boards, comprised of more than 100 physicians and health care leaders, track emerging risks and offer guidance to fellow practitioners. MedPro also offers customized risk management consulting support, live webinars about pertinent risk concerns, and assessment tools for clinical and high-risk areas.

Wide-ranging policy options such as Occurrence, Claims-made and convert to occurrence — as well as non-discretionary premium credits and rate guarantees — serve to offer a variety of plans to suit every need. And, MedPro’s coast-to-coast coverage provides unparalleled portability. Its nationwide network of underwriting, claims and risk professionals delivers customized coverage and exceptional service in every state.

MedPro’s combination of experience and stability, married with innovation, means it can offer unmatched coverage for health care providers, from individual health care professionals to complex health systems.

For more information, visit www.medpro.com.

All data is MedPro Group internal data, claims data range 2006-2017. MedPro Group is the marketing name used to refer to the insurance operations of The Medical Protective Company, Princeton Insurance Company, PLICO, Inc., and MedPro RRG Risk Retention Group. All insurance products are administered by MedPro Group and underwritten by these and other Berkshire Hathaway affiliates, including National Fire & Marine Insurance Company. Product availability is based upon business and regulatory approval and differs among companies. Visit medpro.com/affiliates for more information. © 2017 MedPro Group Inc. All Rights Reserved.
If you don’t look, you’ll never know.

INDUSTRY LEADERSHIP

More than 200,000 insureds trust MedPro Group to protect their assets and reputations.

PEACE OF MIND

It’s your reputation. They’re your assets.
- Pure consent to settle claim policy provision
- The largest & strongest healthcare liability insurer in the country
- A Berkshire Hathaway company with billions in MedPro assets to handle claims
- Highest financial strength ratings: A++ (A.M. Best) and AA+ (Standard & Poor’s)

EXPERTISE

You deserve the best.
- Physician Advisory Boards track emerging risks & offer guidance
- 95% of claims closed without going to trial (2006-2017) / 99% customer satisfaction
- Patient Safety & Clinical Risk Managers average 25 years of experience
- Claims managers average 24 years of experience

CHOICE

Industry-leading flexibility.
- Unmatched policy options: Occurrence, Claims-made & convert to occurrence
- Unmatched, non-discretionary premium credits and rate guarantees available
- Coast-to-Coast coverage provides unmatched portability of coverage
- State-of-the-art patient safety and risk management solutions

Find out more about our healthcare liability solutions today.

MICHAEL J MITCHELL | ASSISTANT VICE PRESIDENT | MIDWEST REGION

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Delivering Peace of Mind

INTERVIEW WITH GRAHAM BILLINGHAM, MD, FACEP, FAAEM
CHIEF MEDICAL OFFICER, MEDPRO GROUP

Q: How has the professional liability environment changed over the last 10 years?

A: Frequency and severity have been the most notable change factors. The 2003 malpractice crisis was obviously a major issue. Since then, we’ve seen consolidation, competition, and the effect of patient safety and risk management efforts. The result is decreased risk and a more competitive marketplace. In terms of coverages provided, MedPro is committed to providing flexibility and portability of coverage. That means we offer a range of products across the country: Claims-Made, Occurrence, and even products that make it easy to switch from Claims-Made to Occurrence.

As we continue to evolve alongside the changing marketplace, our team strives to meet our clients’ needs in the areas of cyber, specialty and regulatory coverage. In terms of the types of liability cases filed, the most common type of allegation is generally misdiagnosis, followed by errors related to surgery and mistakes related to treatment. As the health care industry experiences increasing consolidation, liability cases also tend to be directed at groups and health care systems rather than independent physicians.

Q: How does the Minnesota marketplace compare to other states where you do business?

A: We offer a tremendous coverage option to Minnesota physicians that allows seamless conversion from Claims-Made to Occurrence coverage. It’s absolutely worth taking the time to look at for someone who is not a current MedPro client.

Q: What are some recent trends or patterns in medical malpractice liability?

A: We think about risk in three ways: risk that’s common to all specialties and hospitals, such as communication, documentation, behavior and electronic health care records; risks that are unique to a specialty; and then emerging risk, which comes from the changes in the health care industry. So, we have to address common areas and specialty specific solutions, as well as keep a finger on the pulse of new exposures that are on the horizon.

Q: How do you support your insured physicians who are the target of medical malpractice actions?

A: Experiencing a claim is a very stressful, traumatic, isolating experience for a provider. Our job is to be there for our clients and help alleviate the anxiety. We provide an extremely robust defense and offer pure consent to settle. The client is in the driver’s seat. It’s the client’s good name, and the decisions should be theirs.

Q: How has the consolidating medical marketplace changed your mission/business?

A: There have been tremendous changes in the flow of physicians in their workplace environment. We’re adapting to these changes by offering a suite of products across a platform that accommodates both employed and non-employed physicians. We diligently and continually seek ways to deliver our clients the peace of mind, expertise and choice they deserve.

Q: What makes you unique as a professional liability insurance company?

A: Our longevity and strength. We’ve been in the health care liability industry for 118 years and counting. We’re a group of experts dedicated to protecting our clients as they care for patients. We strive for high service levels, and our customer satisfaction rate reflects that effort. It’s a privilege to protect the reputations and assets of health care providers. We take that very seriously.
COPIC is a leading provider of medical professional liability insurance and is recognized for its industry-leading patient safety and risk management programs. Founded by physicians in 1981, COPIC’s mission is to improve medicine in the communities it serves.

COPIC offers coverage for physicians, allied health professionals, group practices, health care facilities and hospitals in the following states: Colorado, Nebraska, Iowa, Montana, Wyoming, Oklahoma, South Dakota, Minnesota, and Arizona. Nationwide coverage is available through COPIC Risk Retention Group (RRG).

The company provides direct access to medicolegal experts to answer clients’ questions. COPIC’s team of physicians represents different medical specialties and offer clinical expertise to fully support insureds. In addition, COPIC provides a 24/7 risk management hotline staffed by physicians.

COPIC has a communication and resolution program with 10+ years of experience in dealing with unexpected outcomes and addressing patients’ needs, a 92 percent “defend and win” success rate and 86 percent of claims were closed without indemnity payment.

COPIC sets itself apart by providing on-site reviews that help integrate best practices and identify high-risk areas. It provides access to an HR hotline and trainings for support in dealing with human resources issues in the health care setting. And, it offers direct engagement with practice administrators through advisory group meetings.

Serving as an educational partner, COPIC has a wide selection of on-demand courses and in-person seminars on timely topics. Participation in these applies toward an annual premium discount (if eligible) and many activities also qualify for CME credit.

COPIC hosts annual conferences featuring nationally recognized speakers who provide guidance on current health care topics. These conferences are also opportunities to network with peers and share insight. The company produces Copiscope, a risk management newsletter to keep clients informed of current issues.

Additional COPIC benefits:
- Coverage includes defense costs for disciplinary proceedings and governmental investigations
- Access to an online library of medical guidelines and tools that includes consent forms, practice management resources, and HIPAA compliance materials
- Year-round legislative advocacy at the state level that focuses on “protecting the practice of good medicine”
- A company with long-term financial stability—an “A (Excellent)” rating from A.M. Best for 15+ years
- More than $6 million in grant funding and scholarships provided by the COPIC Medical Foundation to support health care.

COPIC serves as a trusted partner for education, fosters collaboration among peers, and advocates for the health care community on important issues such as tort reform, patient safety, access to care and quality improvement. The company also supports health care on a broader level through initiatives such as reduced or no-cost medical liability coverage for volunteer physicians and a training program for medical residents.

For more information, visit www.callcopic.com.
A TRUSTED PARTNER WITH PROVEN EXPERIENCE

COPIC is a better option for medical professional liability coverage that offers more. Our industry-leading programs support physicians, health care professionals, group practices, hospitals and other medical facilities to deliver improved patient care. And having a proven partner means you can focus on what matters most—better medicine and better lives.

COPIC benefits include:

- **On-site reviews that identify high-risk areas** and best practices to address these.
- **A 24/7 risk management hotline staffed by physicians** for guidance in urgent situations.
- **An array of educational activities** that include in-person seminars, on-demand courses, and multi-day conferences.
- **Frequency of claims among COPIC insureds is 30% less than the national average.**
- **10+ years of experience with communication and resolution programs** that address patients’ needs and work toward a resolution after an unexpected outcome.
- **Year-round legislative advocacy** that supports a stable medical liability environment.

For more information, please contact Jerry O’Connell at joconnell@copic.com or (844) 858-1411 ext. 6182.

COPIC is exclusively endorsed by the Colorado Medical Society, Colorado Hospital Association, and Nebraska Medical Association.

www.callcopic.com
INTERVIEW WITH TED CLARKE, MD
COPIC’S CHAIRMAN AND CEO

Q: How has the professional liability environment changed over the last 10 years?

A: Several changes in health care have directly impacted the medical professional liability (MPL) environment. Market consolidation and new business models that support long-term sustainability continue to be prominent trends. Multi-specialty practices have become bigger and single specialty groups are banding together to leverage resources.

Decreased reimbursements coupled with increased administrative burdens have pushed the need for MPL partners that can help manage costs and support efforts to enhance quality and safety. This is especially important as we see changing reimbursement models based on outcomes.

There is added pressure to provide high-quality care to growing patient populations—a challenge due to limited resources and physician shortages. Extending the scope of services provided by allied health professionals is one way to address this, but it also creates new responsibilities and liabilities in supervisory requirements, training and compliance.

Core MPL insurance coverage has remained mostly the same. What has changed are the benefits that come with it and alternative coverage options. At COPIC, we have focused on adding new benefits to better address the needs of insureds. A great example of this is our HR Services, which provides guidance for practice administrators dealing with complex human resources issues.

Most MPL carriers now offer cyber liability coverage embedded in their policies. To support this, COPIC provides robust education resources that help insureds address the growing risks of data breaches and cyber-related issues.

In terms of the types of liability cases filed, notable trends include multiple defendants being named (both individuals and facilities/groups/systems), issues stemming from the delegation of services to allied health professionals, transitions in care issues, and claims related to technology such as EHRs and cyber liabilities.

Q: How has the consolidating medical marketplace changed your mission/business?

A: COPIC remains true to our mission of “improving medicine in the communities we serve” as we explore new opportunities to support larger groups and systems. One way we do this is providing our patient safety and risk management programs in an “à la carte” format. This includes customized education to address high-risk areas, supporting efforts to review internal systems and implement best practices, guidance on instituting a culture of patient safety, and training on how to properly launch and manage communication and resolution programs.
Q: What makes you unique as a professional liability insurance company?

A: COPIC is recognized as a leader in patient safety and risk management programs and resources. We understand that the best insurance isn’t just there for unexpected outcomes—it should help prevent these from happening in the first place. Some of our exclusive benefits include:

• Our 3Rs (Recognize, Respond and Resolve) Program, which was launched in 2000, helps providers maintain communication with patients and work toward a resolution when unexpected outcomes occur. Recognized by The New England Journal of Medicine and Health Affairs, the 3Rs Program focuses on preserving the physician-patient relationship while reimbursing the patient for medical-related expenses.

• COPIC provides direct access to medical experts through a 24/7 risk management hotline staffed by physicians.

• COPIC offers on-site, no-cost reviews that help audit internal systems. These reviews address the challenges unique to each setting, provide customized support, and focus on identifying areas for improvement and integrating best practices.

COPIC’s education activities provide in-depth, practical knowledge to address the reality of today’s health care challenges. We are one of a few medical professional liability carriers to receive “Accreditation with Commendation” from the Accreditation Council for Continuing Medical Education (ACCME).

Involvement in the health care community is another area that sets COPIC apart. This ranges from representing the interests of medical providers through strong legislative advocacy to grant funding through the COPIC Medical Foundation that supports promising initiatives. Our Foundation has provided more than $6 million in grant funding and scholarships.

Q: How does the Minnesota marketplace compare to other states where you do business?

A: Minnesota is recognized as one of the top states to practice medicine as well as being an environment that fosters innovation. Because of this, an MPL insurance provider needs to offer more than just standard coverage—it needs to serve as a trusted partner. Medical professionals, groups, facilities, and hospitals now have more choices of MPL coverage options in Minnesota, which opens up opportunities to evaluate potential partners.

Minnesota is similar to other states in that medical providers face ever-changing challenges and uncertainties in health care. In addition to focusing on patient care, there needs to be a dedication to physician wellness that supports work-life balance, as well as managing stress and preventing burnout.

Q: What are some recent trends or patterns in medical malpractice liability?

A: Telehealth will improve access to care (particularly in rural areas) and reduce health care costs. Telehealth encounters are expected to increase, and state and federal governments are developing frameworks to support the use of telehealth, while also ensuring proper patient protections.

We have also seen new areas of risk from the digital aspects of health care. These include protecting the online reputations of physicians and medical practices, posting protected health information via social media, and the use of smartphones to record interactions.

Q: How do you support your insured physicians who are the target of medical malpractice actions?

A: COPIC strongly encourages early incident reporting because it aids in the ability to evaluate and address a situation, which includes accessing our 3Rs Program, if appropriate. From the moment a claim becomes known, our defense team works closely with insureds to ensure that they have a clear understanding of the situation, the options available, and the recommended course of action.

Facing a lawsuit takes an emotional toll on health care professionals, so COPIC launched its Care for the Caregiver® program, which matches a defendant insured with a specially trained “peer” who has personally gone through the legal process. These peers offer a shared perspective to address difficult feelings—anger, guilt, fear and isolation—often associated with a medical liability claim.

COPIC also offers Lawsuit Stress Support Sessions to encourage insureds, their spouses, and staff to share their experiences. Attendees learn what to expect during the claim process as they interact with claim consultants, physician risk managers, and defense attorneys in a safe, confidential forum.

Another resource COPIC offers to proactively educate physicians on the litigation process is our Mock Trial program. Through the re-enactment of an actual trial, participants examine the process of a medical liability lawsuit, serve as the jury to weigh the evidence, listen to testimony, and ultimately render a verdict.
ProAssurance has roots in Minnesota, reaching back to 1999. Today, the company protects Minnesota physicians—in practices of all sizes—with an exceptional Minnesota-focused team; the financial strength, resources, and expertise of a leading national insurer; and its Treated Fairly® commitment.

Kathryn D. Lombardo, MD, president of Olmsted Medical Center (OMC)—an integrated community-based health care provider serving Rochester and southeast Minnesota—agrees: “ProAssurance’s values align with ours. That’s important. At OMC, our patients come first. ProAssurance exists to protect others—it’s what they do. They bring the same intensity to caring for and protecting our physicians and OMC that we bring to delivering exceptional patient care. Just as every OMC employee is a caregiver and the key to OMC’s success, everyone at ProAssurance is a protector—it really shows in the medical professional liability insurance, outstanding risk management services, and excellent claims management they provide.”

Lombardo continues, “Patient safety and risk management education are critical at OMC. ProAssurance makes it easy to keep our physicians, staff, and leadership current and on the same page with on-site trainings and assessments, easy to share two-minute risk management videos, and access to knowledgeable staff who know OMC and understand our concerns. “It’s a safe relationship, like the one we provide our patients. If a physician is concerned about an issue that could become a claim, their ProAssurance claims specialist provides practical advice and support. OMC’s compliance officer works closely with our ProAssurance Risk Resource Advisor every time we change a policy or procedure to ensure our changes do not open us up to unexpected risks.”

OMC began in 1949 as a solo practice in Rochester. Today, it serves 80,000 southeast Minnesota patients in 20 locations. “OMC is committed to strategic and responsible growth,” Lombardo adds. “ProAssurance has been our professional liability insurer and a valued advisor for years.”

During that time, OMC has added or expanded its bariatrics, non-surgical cardiology, endocrinology, and telehealth programs to name a few, and opened a Women’s Health Pavilion, and a Sports Medicine and Athletic Performance Center. “Health care keeps changing and every innovation can bring unforeseen risks,” Lombardo says. “ProAssurance helps us evaluate new risks as we grow—having a company that insures major health systems all over the country is a tremendous asset. They also help us navigate issues like cyber liability, HIPAA regulations, new technologies, and clinical risk management best practices.”

For Lombardo, it all comes down to well-earned trust. “ProAssurance treats OMC and our physicians fairly,” she says. “Our physicians know that OMC and ProAssurance have their backs—with excellent risk management education, prompt assistance with claims and clinical risk management concerns, and an outstanding defense and physician support if a claim occurs. ProAssurance makes it easier for all of us to focus on what matters most—our patients.”

For more information, visit www.ProAssurance.com.
Minnesota physicians are resilient under pressure—your professional liability coverage should be too.

ProAssurance has been protecting Minnesota physicians since 1999. And, we have key specialists on duty to help you diagnose and treat risks that could harm your practice.

Work with a team who understands the risks you face and stands ready to assist.

Strong protection. Valuable risk resources.
Q: How has the professional liability environment changed over the last 10 years?

A: Like medicine, the professional liability environment has changed profoundly—and not at all. Medicine is, at its heart, a one-to-one relationship. Perhaps nothing is more sacred than the physician-patient relationship. But how that relationship is defined by the health care delivery system has changed as evolving trends push the system toward larger entities and a broader geographic scope.

The relationship between the medical professional liability insurer and the insured physician—whether in a solo practice or as part of a multi-specialty group or a multi-state hospital system—is similar. When a lawsuit is filed, nothing is more important to ProAssurance than the duty to defend a non-meritorious claim, or quickly resolve rare cases of negligence.

To evolve, coverages have broadened to meet physicians at their point of emerging risks such as cyber liability. Tail coverage provisions now reflect the increasing mobility of the American physician and importantly, premiums have decreased or remained level for almost a decade in response to the current loss climate.

Hidden within that rather benign overall loss climate are the sobering facts that claims are becoming more expensive and demanding to defend every year. The plaintiffs’ bar has become more sophisticated and referral networks mean larger, more specialized personal injury firms are appearing in courtrooms far from their home base—armed with costly experts, in-depth trial exhibits, and a “win at all costs” attitude. Mounting an effective defense requires an equally tenacious company that has a superior balance sheet and greater resources to provide the best defense attorneys, find highly-qualified experts, and evaluate complicated electronic medical records.

Most importantly, and also very difficult to discern, is whether an insurance company has an insatiable willingness to try a case when it’s in your best interest—even though the case could be settled for far less money. In other words, has the insurer demonstrated a commitment to put you first?

Q: How has the consolidating medical marketplace changed your mission/business?

A: It hasn’t changed the commitment of ProAssurance to provide our insured physicians with the finest defense possible. That’s why over the past decade we have achieved defense verdicts at a rate 58 percent higher than the industry average (Source: PIAA 2015 Claims Analysis).

However, as the medical marketplace has consolidated, ProAssurance has leveraged its superior balance sheet and deep expertise from 30-plus years of experience in the hospital/facility and large group business to add coverages that address the needs of larger organizations—all the while retaining our proven commitment to the individual physician, no matter the practice setting.

Q: What makes you unique as a professional liability insurance company?

A: Few companies can offer Minnesota physicians the balance sheet strength of ProAssurance Group ($5.1 billion in total assets and $3.3 billion in liabilities at year-end 2016) combined with our proven success in the courtroom, risk management prowess,
ADVERTORIAL: Medical Malpractice Insurance

and long-standing commitment to physician involvement. As of February 2017, 1,272 physicians were part of our claims and underwriting committees and other physician advisory groups across the United States.

Our commitment to our insureds is stated clearly; the words “Treated Fairly” are a part of our name and logo for a reason. They define our approach to every encounter and our mission backs that up: we exist to protect others.

Q: How does the Minnesota marketplace compare to other states where you do business?

A: Minnesota physicians have created the current favorable medical/legal environment by delivering some of the highest quality care in America.

The current environment reflects this history of effective, compassionate care, and that, in turn, has produced a favorable environment when compared to many other states. But the medical/legal environment has not always been so favorable. Companies selling policies at unrealistically low prices may become unstable, risking the future practice and financial well-being of Minnesota physicians. Remember, the most expensive piece of paper in the world is a medical professional liability policy from an insurance company that cannot respond in your time of need.

Q: What are some recent trends or patterns in medical malpractice liability?

A: Claims trends are largely stable overall, but severity continues to tick up at approximately 2 to 3 percent per year and the number of large, multi-million dollar verdicts is rising. Against that backdrop, smaller companies appear to be attempting to maintain market share by charging a price that may not allow them to deliver the quality of defense and the level of service required by ever-larger health care delivery systems, and sophisticated solo practitioners and small groups.

Mass torts—resulting from increasingly frequent regulatory investigations—are stressing smaller insurers that lack the financial and legal resources to combat the national plaintiff firms that are attracted by the potential outcomes of these investigations. The medical liability industry is littered with the corpses of companies that did not evolve to meet new liability threats or grow to respond to the needs of the environments in which their clients practice.

Q: How do you support your insured physicians who are the target of medical malpractice actions?

A: ProAssurance understands that unlike almost any other profession, a physician is what a physician does. I may be greeted at the coffee shop as “Stan,” but my physician friends are always greeted as “Doctor.” We know that whether our insured is in solo practice in Ely, or in a multi-specialty group in Eden Prairie, an allegation of malpractice strikes at the heart of their existence. We respond within hours of a claim notice to begin preparing a defense that is unparalleled in its ultimate success.

But, we also understand the allegation takes a personal toll on the physician and that physician’s family, so we have assembled a network of physicians who “have been there and done that.” For more than seven years, our Physician Collaboration Network, a local physician-to-physician support program, has helped lessen the uncertainty of litigation by providing support and assurance to targeted physicians. Our highly skilled, knowledgeable claims team and peer-support physicians are with our defendant physicians every step of the way.

And finally, in the rare instance that the facts of the case reveal a settlement is warranted, every one of our insureds will know we have the resources to achieve a fair and reasonable settlement—but only after obtaining consent to settle.
MMA’s Annual Conference
Saturday, September 23
Mayo Civic Center, Rochester

Register now! mnmed.org/ac2017