



First Professionals Insurance Company

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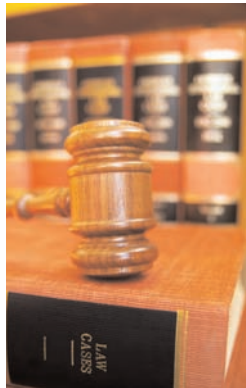
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Information in this newsletter does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained here are generalized and may not apply to all practice situations. First Professionals recommends you obtain legal advice from a qualified attorney for a more specific application to your practice. This information should be used as a reference guide only.

First Professionals Insurance Company is Florida's Physicians Insurance CompanySM and the endorsed carrier for professional liability insurance by 22 county medical societies, 15 specialty societies, and two statewide associations in Florida.

NEWS & VIEWS

CHANGES TO TORT REFORM LAWS COULD PUT YOUR PRACTICE AT RISK



Implementing an arbitration program for your practice is more important than ever. In recent years, states with caps on non-economic damages have provided protection from large jury verdicts. However, the constitutionality of those caps is now frequently challenged. The use of an arbitration agreement as an alternative to bringing a case to trial can make a significant difference on the impact of a professional liability claim against you.

Benefits of Caps

The application of caps resulted in several benefits for physicians, including a reduction in the number of claims and frivolous lawsuits. When physicians practice without the fear of lawsuits, the number of defensive medicine procedures decrease, thereby cutting costs. In addition, many physicians experience a significant decrease in medical malpractice premiums.

Without the threat of frequent lawsuits and considerable plaintiff awards, doctors are more likely to move into or remain in states with caps, allowing for appropriate physician specialist coverage. This benefit means better healthcare options for patients.

Will Caps Survive?

Over the past several years, many states enacted tort reform laws which limit the amount of non-economic damages in medical professional liability cases. While some state laws have survived constitutional challenges, laws restricting malpractice damages have already been struck down in several states, including Georgia and Illinois. As a consequence, the outcome of some plaintiff awards is considerably higher than the amount of the caps.

Other states, including Florida, have similar lawsuits that are currently pending and moving through the court system. Many will ultimately be decided by the relevant state supreme courts. A negative outcome for any of these lawsuits will eliminate the caps on non-economic damages. Without caps, physicians face the real possibility of jury verdicts with substantial plaintiff awards which will likely jeopardize their professional reputation and personal assets.

Ideally, a national cap on non-economic damages would be the most effective solution. However, with the absence of Congressional approval, the decisions regarding tort reform issues remain on a state-by-state basis.

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“The arbitration program has been tested and proven to be beneficial through its results in a successful outcome for several of our policyholders.”

What are the advantages of an arbitration program?

With the looming threat of the loss of caps, physicians need to be prepared. One solution is the establishment of an arbitration program for your practice. When the patient and the physician agree to arbitration, they agree to give up their constitutional right to have any potential medical malpractice claims resolved in court.

Binding arbitration means that physicians and patients agree to litigate – outside the court system – any claims that may arise from rendering or failing to render medical care and treatment before an arbitration panel. The arbitration panel is required to follow state law and their decision is binding upon the parties except in very limited circumstances. Upholding the validity of such agreements will assist physicians in managing their exposure to medical malpractice judgments.

In Florida, the enforceability of a mandatory binding arbitration agreement in the context of a medical malpractice claim was tested in 2008. In that particular case, an appeals court found that the arbitration agreement was valid and that the patient had a meaningful opportunity and ability to know and understand the terms of the agreement before signing it and that the terms of the agreement were reasonable and fair.

First Professionals Offers the Best Protection

The arbitration agreement and program designed by First Professionals is structured in a way that is very similar to the facts presented in the 2008 case. The program has been tested and proven to be beneficial through its results in a successful outcome for several of our policyholders. As a result of the strength of the arbitration program, our policyholders benefit from the experience of First Professionals to successfully defend them with an alternative to the courtroom to settle claims.

For policyholders who choose to participate in the arbitration program, First Professionals will provide, at no charge, the arbitration agreement forms, along with a DVD in both English and Spanish. These tools allow physicians to effectively inform their patients about the purpose and fundamentals of the arbitration agreement.

After completing the order form and executing the arbitration participation agreement, First Professionals will mail an arbitration contract and DVD within 10 business days. For additional information concerning participation in the program, please contact Stephany Carter in the Marketing Department at (800) 741-3742 ext. 3064 or at carter@fpic.com. For legal issues concerning the program please contact Rob Wortelboer, First Professionals' General Counsel and Vice President at (800) 741-3742 ext. 3281 or at wortelboer@fpic.com. ▶

FIRST PROFESSIONALS INTRODUCES MEDICAL JUSTICE PROGRAM



First Professionals is pleased to announce a new strategic partnership with Medical Justice Services, Inc. Medical Justice is the leading organization offering patented services to protect physicians' most valuable assets – their practice and reputation – against frivolous lawsuits, Internet defamation and other medico-legal threats.

Under a preferred pricing agreement, a significant discount off the annual retail cost of membership will be available for First Professionals policyholders. Medical Justice's programs complement the traditional medical malpractice insurance provided by First Professionals.

The services offered by Medical Justice deliver proven results such as decreasing malpractice suit rates, holding proponents of meritless lawsuits accountable and address Internet defamation. Medical Justice reports its plan members experience a significant reduction in medical malpractice suits.

- 99.5% of Medical Justice members enjoy zero lawsuit claims year after year (with full implementation of its programs)
- 96% of Medical Justice members' Request for Records never mature into actual results
- 92% of Intent to Sue/Notice of Intent letters are stopped cold

“This partnership supports and enhances First Professionals' longstanding pledge to provide excellent benefits for all of our policyholders,” said Robert White, Jr., President of First Professionals. “Offering Medical Justice to our Florida-based insureds will be instrumental in mitigating many aggravating situations that affect healthcare providers today.”

While the Medical Justice program is currently offered exclusively for Florida policyholders, we encourage all interested policyholders to contact Medical Justice. For more information, please call Medical Justice at 877.MED.JUST (877.633.5878) or send an e-mail to fpic@medicaljustice.com. ▶

EXPERT DEFENSE ATTORNEYS MAKE A DIFFERENCE

When faced with a claim or potential trial, the experience of a trusted defense attorney is critical. First Professionals has access to leading medical experts across the country and longstanding relationships with seasoned trial attorneys who excel in the courtroom. Our positive claims results are a direct result of the combination of the expertise involved in the handling of each case.

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For healthcare practitioners that go through the ordeal of a claim brought against them or involvement in a trial, the professionalism and commitment of the claims team and legal experts directly impacts their experience.

The satisfaction of our policyholders is frequently confirmed by letters of appreciation. The testimonials consistently praise the combined efforts of our claims staff defense attorneys.

“I wish to thank you and FPIC for your recent support and professional handling of [my] case. Your swift dealing and empathetic engagement made a very unpleasant situation far less stressful for me.” - Dr. S.

“I am writing this letter on behalf of Mr. Rolando Diaz Esq. I wanted to express what an excellent job he did in representing me in the case. He was a complete professional. I felt secure with his strategy and methodology. He was clear with his plans and I was impressed with the level of his medical knowledge. I would unequivocally recommend him to anyone seeking representation.” Dr. N.

The unparalleled experience of our claims team and its partnership with expert attorneys is vital to the outcome of claims made against healthcare professionals. Coverage with First Professionals offers proven protection and the commitment of our entire organization to an aggressive defense for all of its policyholders. ▶

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