

**REPORT OF THE
STATE CORPORATION COMMISSION'S
BUREAU OF INSURANCE
ON THE**

**ACTIVATION OF A
MEDICAL MALPRACTICE
JOINT UNDERWRITING ASSOCIATION**

**TO THE GOVERNOR AND
CHAIRMEN OF THE COMMERCE AND LABOR COMMITTEES
OF THE GENERAL ASSEMBLY OF VIRGINIA**

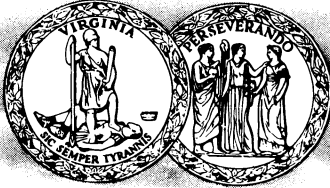
**COMMONWEALTH OF VIRGINIA
RICHMOND
2003**

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STATE CORPORATION COMMISSION

December 10, 2003

TO: The Honorable Mark R. Warner
Governor of Virginia

The Honorable William C. Wampler, Jr.
Chairman, Senate Commerce and Labor Committee

The Honorable Harvey B. Morgan
Chairman, House Commerce and Labor Committee

We are pleased to transmit this Report of the State Corporation Commission's Bureau of Insurance on the Activation of a Medical Malpractice Joint Underwriting Association.

Respectfully submitted,

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Hullihen Williams Moore
Chairman

A handwritten signature in black ink, appearing to read 'Theodore V. Morrison, Jr.', written over a horizontal line.

Theodore V. Morrison, Jr.
Commissioner

A handwritten signature in black ink, appearing to read 'Clinton Miller', written over a horizontal line.

Clinton Miller
Commissioner

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EXECUTIVE SUMMARY

In 2003, the General Assembly enacted Senate Bill No. 1316 (Chapter 1026 of the 2003 Acts of Assembly), which included a provision requiring the State Corporation Commission (SCC) to commence an investigation of the voluntary market for medical malpractice insurance as provided for in § 38.2-2801 of the Code of Virginia. Section 38.2-2801 states that the State Corporation Commission shall activate a joint underwriting association (JUA) if, after investigation, notice, and hearing, it finds that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care.

The Bureau conducted five surveys in its investigation of the availability of medical malpractice insurance in the voluntary market in Virginia. Surveys were sent to physicians, hospitals, and nursing homes to determine if they were experiencing difficulty in obtaining medical malpractice insurance in Virginia. Surveys were also sent to insurance companies and insurance agencies to ascertain who was writing new business and what types of restrictions were being placed in the market. The Bureau also held meetings with physicians throughout the state to provide them with an opportunity to explain the problems they were having with regard to their medical malpractice insurance. Finally, as part of the study, the Bureau reviewed the number and types of complaints that had been received by the Bureau's Property and Casualty Consumer Services Section from medical providers to determine how many consumer complaints involved the lack of available medical malpractice coverage.

The Bureau's findings do not indicate that a significant number of any class, type, or group of health care providers cannot obtain medical malpractice coverage in the voluntary market. In fact, the most prevalent problem for health care providers appears to be affordability rather than the availability of coverage. Because the JUA is designed to be self-supporting (meaning that its policyholders would have to pay an actuarially sound premium as well as a stabilization reserve fund charge equal to one-third of the annual premium), the JUA would not necessarily make coverage affordable. In fact, in previous testimony before the Commission, it was stated that a JUA needs at least 500 policyholders to be self-supporting. Also, at the time the previous JUA was granted permission by the SCC to begin dissolution, approximately the same number of carriers were seeking to write new business for physicians as there are in today's market. Therefore, the Bureau does not recommend that a JUA be activated at this time.

If the General Assembly were to determine that it would be in the public's interest to have a JUA in operation for even a small number of providers, certain

statutory changes would have to be made in Chapter 28 of Title 38.2 (§ 38.2-2800 et seq.) of the Code of Virginia. These would include:

(i) removing the requirement that coverage cannot be made reasonably available for a *significant* number of any class, type, or group of providers (in order to allow coverage to be made available for even a few health care providers);

(ii) removing the requirement that the JUA be self-supporting (and thus shifting at least some of the costs away from the JUA policyholders, eventually passing these costs on to the liability insurance carriers in the state and their insureds, in order to make coverage in the JUA more affordable) and addressing the nature and scope of any subsidization; and

(iii) removing reference to the provisions that require the JUA to be dissolved once the Commission determines that medical malpractice insurance *can* be made reasonably available in the voluntary market (in order to maintain the availability of coverage in the JUA at all times, and thus eliminate the delay in investigating the marketplace to determine when a JUA is needed).

This report also details the pros and cons of setting up a JUA.

INTRODUCTION

Legislative Mandate

In 2003, the General Assembly enacted Senate Bill No. 1316 (Chapter 1026 of the 2003 Acts of Assembly - see the Appendix of this report), which included a provision requiring the State Corporation Commission (SCC) to commence an investigation of the voluntary market for medical malpractice insurance as provided for in § 38.2-2801 of the Code of Virginia. Section 38.2-2801 states that the State Corporation Commission shall activate a joint underwriting association (JUA) if, after investigation, notice, and hearing, it finds that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care.

Methodology

In order to comply with Senate Bill No. 1316, the SCC's Bureau of Insurance (Bureau) conducted a number of surveys in its investigation of the availability of medical malpractice insurance in the voluntary market in Virginia.

- A survey was sent to all insurers that had written medical malpractice liability insurance premiums in Virginia in 2002. The number of insurers totaled 65 and included licensed carriers, risk retention groups, and surplus lines carriers. (Surplus lines carriers are insurers that are not licensed in Virginia but are "approved" pursuant to the provisions of Chapter 48 of Title 38.2 (§ 38.2-4800 et seq.) of the Code of Virginia; risk retention groups are insurers that are governed under the provisions of Chapter 51 of Title 38.2 (§ 38.2-5100 et seq.) of the Code of Virginia and whose primary purpose is assuming and spreading the liability exposure of their members.)
- A survey was sent to 43 insurance agencies licensed in Virginia who represented licensed medical malpractice insurers that were seeking to write new business for physicians and who had indicated that they wished to be placed on the Bureau's contact list.
- A survey was sent to a random sample of 1228 physicians in Virginia. This sample was taken from a list of 19,727 active physicians provided by the Virginia Board of Medicine. This list represented the total number of active physicians licensed and practicing in Virginia at the time of the data request.¹

¹ A random sample of physicians was obtained by using a multi-stage sampling methodology. Initially, a stratified sample methodology was employed to break the population into four geographical territories (the four common underwriting territories used by most insurers to write physicians in Virginia). Next, an interval selection methodology was applied to the population, sorted by specialty and zip code, within each territory. The interval sample was obtained by taking every *n*th record, where *n* was the interval calculated by dividing the number of physicians within each territory by the desired sample size. The objective was to come up with a total sample population of at least 1,200 physicians (as recommended by the Bureau's consulting economist) representing a proportionate sample of each specialty within each territory.

- 126 hospitals were surveyed. The list of hospitals was provided by the Virginia Department of Health and represented the total number of hospitals licensed in Virginia at the time of the data request.
- 909 nursing homes and assisted living facilities were surveyed. The list of nursing homes was provided by the Virginia Department of Health, and the list of assisted living facilities was provided by the Virginia Department of Social Services. These lists represented the total number of nursing homes and assisted living facilities licensed in Virginia at the time of the data request. This survey was a follow-up to a survey of 900 licensed nursing homes and assisted living facilities in 2001.

Copies of each of these surveys are shown in the Appendix of this report.

In order to activate a JUA, the Commission must find that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care. As part of its methodology, the Bureau sought expert advice from its consulting economist, Technical Associates, Inc., as to what constitutes a *significant* number of any class, type, or group of providers of health care. Technical Associates reviewed the results of the surveys and assisted the Bureau in analyzing whether medical malpractice insurance was reasonably available in the voluntary market.

History of JUAs in Virginia

Two JUAs have been activated and dissolved in Virginia. One was a JUA for health care facilities. Prior to the recodification of the insurance code in 1986, Title 38.1 of the Code of Virginia included a provision (§ 38.1-776) that created a JUA. Section 38.1-776 was enacted in 1976. This section stated that the JUA would not commence underwriting operations for any class, type, or group of providers until the Commission, after investigation and hearing, had determined that medical malpractice insurance could not be made reasonably available for a significant number of any class, type, or group of providers of health care in the voluntary market. On March 29, 1976, the SCC issued an order authorizing the JUA to commence underwriting operations for health care facilities licensed or eligible for licensure under Chapter 16 of Title 32 of the Code of Virginia (current provisions now found in § 32.1-123 et seq.) or Chapter 8 of Title 37.1 (§ 37.1-179 et seq.) of the Code of Virginia. Section 38.1-776 further stated that the JUA would remain in effect until July 1, 1980. Section 38.1-776.1 stated that the JUA would only remain in existence after July 1, 1980 for the sole purpose of completing its orderly dissolution, including transferring policies in force to approved carriers. Section 38.1-776.1 further required the Commission to issue an order of dissolution when the Commission found that the JUA had met all of its obligations incident to the termination of its business affairs. The Commission's order approving a plan of dissolution was issued on November 15, 1982.

In 1986, § 38.2-2801 was enacted which empowered the Commission to activate a JUA if it found that medical malpractice insurance could not be made reasonably available in the voluntary market for a significant number of any class, type or group of providers of health care. A JUA was activated on September 9, 1986, upon a finding by the SCC that medical malpractice liability insurance could not be made reasonably available in the voluntary market for physicians and surgeons. On March 11, 1988, the SCC issued a second order expanding coverage under the JUA to include nurse practitioners, nurse anesthetists, and nurse midwives. In June of 1988, the JUA had a total of 426 policies in force. By February of 1991, the number had dropped to 80. After experiencing a considerable loss of population in the JUA and an inability to remain self-supporting as required under subsection B of § 38.2-2801, the JUA petitioned the Commission for formal authority to dissolve. On February 5, 1992, the SCC issued an order granting a request to commence the dissolution of the JUA. (At that time, there were nine licensed insurers seeking to write new business for physicians and surgeons as well as approximately 20 risk retention groups and purchasing groups.) As of December 1, 1992, the JUA had 22 policies in force. By the end of 1993, all policies had expired, and only extended reporting endorsements remained in effect. (An extended reporting endorsement, otherwise known as “tail” coverage, extends the time to report claims after claims-made coverage has been terminated.) A number of attempts were made to find a carrier willing to take over the liabilities of the JUA so that the JUA could be formally dissolved. On June 16, 1999, the SCC issued an order approving an assumption agreement with American Continental Insurance Company, and on February 5, 2001, a final order dissolving the JUA was issued by the SCC.

How the JUA Operates

As set forth in subsection A of § 38.1-2801, if a JUA becomes activated, it will consist of all insurers licensed to write and engaged in writing liability insurance in Virginia on a direct basis except those exempted under subsection C of § 38.2-1902 (i.e. mutual assessment property and casualty insurance companies).

Subsection B of § 38.2-2801 states that the purpose of the JUA is to provide a market for medical malpractice insurance on a self-supporting basis without subsidy from its member insurers. Consequently, if a JUA is formed, its policyholders will be required to pay an actuarially sound premium as well as a stabilization reserve fund charge. As stated in § 38.2-2807, this charge is equal to one-third of the annual premium and is required to be paid by policyholders until the fund reaches a level deemed appropriate by the Commission. The purpose of the stabilization reserve fund is to pay expenses, taxes, licenses, and fees as well as any retrospective premium adjustment charge (which is an additional premium charge based on the experience of all policyholders in the JUA). Therefore, even though member insurance companies fund the start-up costs necessary to activate a JUA (which start-up costs are required to be

refunded to the member insurance companies upon dissolution of the JUA), ultimately, the costs of running a JUA are borne by its policyholders.

Subsection B of § 38.2-2804 states that the JUA's plan of operation shall contain certain provisions including reasonable and objective minimum underwriting standards developed in consultation with the members of the medical and hospital advisory committees appointed by the Commission as provided for in § 38.2-2805. Because the JUA is authorized to set minimum underwriting standards, it is not required to insure every provider that cannot obtain coverage through the voluntary market. Each provider seeking coverage through the JUA must meet the minimum underwriting standards.

SURVEY RESULTS

The Bureau conducted five surveys in its investigation of the availability of medical malpractice insurance in the voluntary market in Virginia.² The purpose of the surveys was to determine whether physicians, hospitals, and nursing homes are experiencing difficulty in obtaining medical malpractice insurance in Virginia and whether certain groups are experiencing more problems than others. Insurance company and insurance agency surveys were designed to ascertain who is writing new business and what types of restrictions are being placed on the market. The findings of these surveys are shown below.

Insurance Company Survey

A survey was sent to all 65 insurance companies that had written medical malpractice liability insurance premiums in Virginia in 2002. These included licensed insurers, risk retention groups, and approved surplus lines carriers. The results of this survey are as follows:

- Responses were received from 50 insurance companies, resulting in a response rate of 77%.
- 24 insurance companies (48%) indicated that they provide professional liability coverage for physicians and surgeons, and 15 of these (30%) indicated that they were actively seeking new business. In addition, no less than 10 companies indicated that they would write the following specialties: plastic surgeons, general surgeons, anesthesiologists, neurosurgeons, surgeons performing elective surgery, OB/GYNs, family practitioners with OB/GYN exposure, family practitioners without OB/GYN exposure, physicians with correctional system exposure, emergency room physicians, radiologists, and pathologists; and 16 companies indicated that they would provide “prior acts” coverage for claims-made policies (“prior acts” provides coverage for claims arising from acts that occurred before the beginning of the policy period). One company indicated that it had placed geographic restrictions on writing policies in Virginia. Subsequent to the survey, another company also indicated that it had placed geographic restrictions on writing certain classes of physicians and surgeons in Virginia.
- 10 insurance companies (20%) indicated that they provide professional liability coverage for hospitals, and seven of these (14%) indicated that they were actively seeking new business. In addition, 10 companies indicated that they would write community hospitals, nine companies indicated that they would write critical care hospitals, eight companies indicated that they would write rehabilitative hospitals, and seven indicated

² The “voluntary” market is composed of insurers that are voluntarily providing coverage, as compared to the “residual” market, also known as the “shared” market or the “involuntary” market, which makes insurance available to those who are otherwise unable to obtain coverage. A JUA is a type of “residual” market mechanism.

that they would write psychiatric hospitals. Nine companies indicated that they would provide “prior acts” coverage for claims-made policies but stipulated conditions.

- Seven insurance companies (14%) indicated that they provide professional liability coverage for nursing homes, and four of these (8%) indicated that they were actively seeking new business. In addition, three companies indicated that they would write for-profit nursing homes, six companies indicated that they would write not-for-profit nursing homes, six companies indicated that they would write skilled care nursing homes, and six companies indicated that they would write assisted living facilities. Four companies indicated that they would provide “prior acts” coverage for claims-made policies.

Insurance Agency Survey

A survey was sent to 43 agencies licensed in Virginia who represented licensed medical malpractice insurers that were seeking to write new business for physicians and who had indicated that they wished to be placed on the Bureau’s contact list. The results of this survey are as follows:

- Responses were received from 29 insurance agencies, resulting in a response rate of 67%.
- Only one respondent indicated that it had not had any requests from physicians for medical malpractice insurance since July 1, 2002; however, the majority of respondents indicated that they had not had any requests from hospitals or from nursing homes for medical malpractice insurance since July 1, 2002.
- Only three agencies indicated that their medical malpractice underwriters were not currently seeking new business for physicians; only one agency indicated that its medical malpractice underwriters were not currently seeking new business for nursing homes; and none of the respondents indicated this for hospitals.
- The majority of respondents indicated that prices were higher for policy renewals and that the terms and conditions of renewal policies were the same or stricter than policies currently in force.
- The majority of agencies indicated that they were not experiencing difficulties obtaining “prior acts” coverage for insureds who were changing insurers due to insurer withdrawals or insolvencies.

Physician Survey

A survey was sent to a random sample of 1228 physicians in Virginia. This sample was taken from a list of 19,727 active physicians provided by the Virginia Board of Medicine. This list represented the total number of active physicians licensed and practicing in Virginia at the time of the data request. The results of the physician survey are as follows:

- Responses were received from 627 physicians, resulting in a response rate of 51%. Of these, 550 indicated that they were actively practicing, 66 indicated that they had retired (these physicians had not yet informed the Board of Medicine that they were no longer actively practicing), and 11 did not provide a response to the question regarding their current status.
- Of the 550 physicians who indicated on the survey that they were actively practicing, two physicians (less than 1%) said that they were “going bare,” meaning that they were practicing without the benefit of insurance coverage; 10 physicians (2%) said that they were closing practice, retiring early, or moving to another state; and 78 (14%) said that they were no longer offering high risk procedures.
- 34 physicians (6%) indicated that their coverage had been cancelled or non-renewed during the year. Of these, two physicians (less than 1%) were unable to obtain “tail” coverage or “prior acts” coverage.

Hospital Survey

A survey was sent to 126 hospitals. The list of hospitals was provided by the Virginia Department of Health and represented the total number of hospitals licensed in Virginia at the time of the data request. The results of this survey are as follows:

- Responses were received from 50 hospitals, resulting in a response rate of 40%.
- 47 respondents (94%) indicated that they had purchased professional liability coverage during the year.
- Eight respondents (16%) indicated that their coverage had been cancelled or non-renewed during the year.
- Of these eight respondents, seven were able to purchase “prior acts” coverage from their new insurer. The one hospital that could not purchase “prior acts” coverage was also not able to purchase “tail” coverage from its previous insurer since the hospital was insured with Reciprocal of America (ROA) which was ordered by the State Corporation Commission in June of 2003 to be liquidated.
- When the hospitals were asked whether they had decided to “go bare” (i.e. go without insurance), close their facility, or cease offering high risk procedures, one respondent indicated that it had already decided to “go bare” for prior acts coverage, and one said it was considering going bare; one respondent had already decided to cease offering high risk procedures and three said they were considering it; none of the respondents indicated that they were closing their facility, but one said it was considering it. In addition, 11 respondents indicated that they were cutting staff, 20 indicated that they were delaying purchases, and four indicated that they were limiting their practice in either their emergency

room, their ambulatory surgery center, or some other aspect of hospital care.

Nursing Home Survey

A survey was sent to 909 nursing homes and assisted living facilities. The list of nursing homes was provided by the Virginia Department of Health, and the list of assisted living facilities was provided by the Virginia Department of Social Services. These lists represented the total number of nursing homes and assisted living facilities licensed in Virginia at the time of the data request. This survey was a follow-up to a survey of 900 licensed nursing homes and assisted living facilities in 2001. The results of this survey are as follows:

- Responses were received from 317 nursing homes and assisted living facilities, resulting in a response rate of 35%.
- 201 respondents (63%) indicated that they had attempted to purchase or renew medical professional liability insurance within the past 12 months from the date of the survey.
- 166 of the 201 respondents (83%) indicated that they were successful in purchasing or renewing medical professional liability coverage. Of the respondents who indicated that they were not successful, only three indicated that it was because coverage was unavailable.
- When asked whether the respondents' medical professional liability insurance had been cancelled or non-renewed in the past 12 months, 35 respondents (11%) indicated that their coverage had been cancelled or non-renewed. Of these 35 respondents, only eight (3%) indicated that they had not replaced their coverage because coverage was unavailable.
- When asked whether the purchase of medical professional liability insurance was more difficult, less difficult, or about the same as the previous year, 261 provided responses. Of these, 168 (64%) indicated that it was more difficult, 81 (31%) said it was about the same, and 12 (5%) said it was less difficult.
- When asked whether the coverage purchased during the past 12 months was broader, more restrictive, or about the same as the previous year, 245 provided responses. Of these, 120 (49%) indicated that coverage was more restrictive, 111 (45 %) said it was about the same, and 14 (6%) said the coverage was broader.

Investigation into Subclasses Not Surveyed

The Bureau did not survey all classes of health care providers since there had been no indication of an availability problem for any other major class of medical professional liability insurance risks, such as nurses or dentists. Although the Bureau did not send a survey to every class or subclass of health care providers, the Bureau heard from a few individuals within some small subclasses who could not obtain affordable insurance or who could not obtain

the limits of coverage they wanted to purchase. For example, the Bureau heard from two nurse practitioners in northern Virginia who were unable to obtain limits over \$1 million per occurrence. In addition, the Bureau heard from two nurse midwives who perform home birth services and who could not obtain affordable medical malpractice insurance. Another nurse midwife wrote to the Bureau with the same concerns although this nurse midwife indicated that she did not perform home birth services.

The Bureau contacted the American College of Nurse Practitioners and the American College of Nurse Midwives to confirm this information. According to the insurance provider of members of the American Academy of Nurse Practitioners and the American College of Nurse Practitioners, coverage is available for limits up to \$1 million per occurrence and \$6 million in the aggregate. According to the insurance provider of the members of the American College of Nurse Midwives, coverage is available for limits up to \$1.7 million per occurrence and \$5.1 million in the aggregate for nurse midwives who do *not* perform home birth services. The Bureau contacted the Virginia Chapter of the American College of Nurse Midwives to find out how many nurse midwives in Virginia perform home birth services. Although the Bureau could not get an exact number, the Bureau understands that the number is very small. Subsequent to the Bureau's conversation with the Virginia Chapter of the American College of Nurse Midwives, a licensed insurer made a filing to be effective on or after December 13, 2003, which will cover nurse midwives in Virginia who perform home birth services.

It should be recognized that some small subclasses of health care providers may not be able to obtain medical malpractice insurance at a price they deem affordable because of the particular risks they represent. Some risks are considered commercially uninsurable because either the loss exposure cannot be accurately measured or the cost to insure is prohibitively expensive because the risk of loss is too large to be affordably spread among the few members of the subclass. Such subclasses represent a small portion of the population. The JUA, as it is currently structured in the Code of Virginia, could not be maintained on a self-supporting basis if it only insured very small subclasses of risks. In other words, if the JUA lacked an adequate number of insureds to share the cost, the premiums would be too expensive for the small number of policyholders seeking coverage. In testimony prepared by the chairman of the board of directors of the previous JUA, in order to be self-supporting, a JUA should insure at least 500 policyholders. The previous JUA never reached this level.

MEETINGS WITH PHYSICIANS

In addition to conducting surveys, the Bureau also met with a number of physicians throughout the state. The meetings were sponsored by various medical societies, hospitals, and an insurance agency and were held in Lynchburg, Petersburg, Fairfax, Abingdon, Richmond, and Roanoke. The purpose of these meetings was to provide physicians with an opportunity to explain the problems they were having with regard to their medical malpractice insurance and to provide individual assistance as needed. The Bureau also distributed lists of insurance carriers that specialize in writing insurance for physicians.³ The meetings were well attended. Generally, availability of coverage did not appear to be a problem for the physicians attending these meetings. Affordability was the problem expressed by most physicians.

The Bureau heard from some physicians who had previously been insured with Doctors Insurance Reciprocal (DIR) who could not obtain extended reporting coverage (otherwise known as "tail" coverage, which extends the time to report claims) because the risk retention group had been declared insolvent. At the time of these meetings, the Bureau had already been involved in trying to locate an insurer willing to write coverage for unreported incidents that occurred while the physicians were insured with DIR. As a result of the Bureau's efforts, an insurer was located that was willing to provide such coverage. In addition, this insurer indicated that it would be willing to provide the coverage to health care providers other than physicians, including health care providers who had previously been insured with carriers other than DIR.

³ The Bureau compiled a list of licensed insurers that were writing new business, a list of agencies that were able to place the business with at least one of these insurers, and a list of purchasing groups (which purchase liability coverage on a group basis for its group members pursuant to Chapter 51 of Title 38.2 of the Code of Virginia). The Bureau also put together an information checklist and shopping tips for physicians who were seeking medical malpractice coverage as well as information explaining purchasing groups, risk retention groups, and surplus lines insurers. All of this information was provided to the various medical societies as well as to individual physicians who contacted the Bureau for assistance. (See the Appendix for this information.)

CONSUMER COMPLAINTS

As part of this study, the Bureau also reviewed the number and types of complaints that had been received by the Property and Casualty Consumer Services Section over the past several months from medical providers.

From June through October, there were very few consumer complaints involving the lack of available medical malpractice coverage. For example, the Consumer Services Section received six written complaints from physicians whose policies were being non-renewed, one telephone call from a physician seeking a list of insurers willing to write coverage, one from a physician who expressed concerns about the medical malpractice insurance market in general, three calls from physicians who could not locate coverage (one physician worked only in nursing homes), and three written complaints from nurse mid-wives (two of whom performed home birth services and could not locate coverage at a reasonable price). The rest of the complaints and telephone calls that involved medical malpractice insurance during this time period pertained to rate increases or were from physicians previously insured with Doctors Insurance Reciprocal (DIR).⁴

During this same time period (June through October), the Consumer Services Section received, on average, a total of 2,860 telephone calls per month and 468 written complaints per month. Consequently, the number of written complaints and telephone calls involving medical malpractice insurance represented less than 1% of the total number of written complaints and telephone calls received by the Consumer Services Section for that time period.

⁴ As mentioned in the previous section, at the time of this report, the Bureau was in the process of compiling a list of physicians who were previously insured with DIR and who could not obtain "tail" coverage because the risk retention group had been declared insolvent. The Bureau contacted these physicians to advise them that an insurer had been located that was willing to provide coverage for unreported incidents that occurred while the physicians were insured with DIR.

OTHER BUREAU STUDIES

In addition to conducting this study pursuant to Senate Bill No. 1316, the Bureau initiated two other studies. The Bureau requested its consulting actuary, Mercer Risk, Finance, & Insurance Consulting, Inc., to review the medical malpractice insurance rates that licensed insurers were charging physicians in order to determine whether the rates were excessive. This study was initiated because many physicians were voicing their concerns about having to pay high insurance premiums. The results of this study indicate that the rates charged by the major licensed writers of physicians' and surgeons' professional liability coverage in Virginia are generally within the indicated benchmark ranges of rates and consequently appear to be adequate and not excessive.

The Bureau also requested its consulting economist, Technical Associates, Inc., to analyze the medical malpractice insurance market to determine whether sufficient competition existed in the marketplace to continue to allow the rates to be regulated under Virginia's "file and use" statute (§ 38.2-1906). The results of this study indicate that there is sufficient competition in the medical malpractice insurance market to continue to allow rates to be regulated under the "file and use" statute.

PROS AND CONS OF ESTABLISHING A JUA

It may be noteworthy to mention the pros and cons of establishing a joint underwriting association, as contemplated in Chapter 28 of Title 38.2, before one is established. These are indicated below:

Pros

- A JUA makes coverage available for certain classes of health care providers who cannot otherwise obtain coverage in the voluntary market.
- A medical malpractice JUA may be seen as a way to protect the health and safety of the citizens of the Commonwealth by ensuring that coverage is available to health care providers who meet the underwriting standards of the JUA.

Cons

- A JUA does not address the issue of affordability. Providers who obtain coverage through the JUA are required to pay an actuarially sound rate plus a stabilization reserve fund charge (equal to one-third of the annual premium). Policyholders must pay the stabilization reserve fund charge until the fund reaches a level deemed appropriate by the Commission. (In testimony prepared by the chairman of the board of directors of the previous JUA, the total charges for coverage of physicians in the JUA, including the stabilization reserve fund charge, were about 77% higher than the rates charged by the largest writer of physicians at that time.)
- The costs of initially setting up a JUA and any future deficits in the stabilization reserve fund are borne by all liability insurers doing business in the Commonwealth (including auto and homeowners insurers, for example). This cost is ultimately passed along to their policyholders. The Code of Virginia allows for any additional assessments to be recovered by deducting the insurer's share of any deficit from future premium taxes due the Commonwealth. The Code also requires all start-up costs and other funds paid to the JUA that have not been reimbursed prior to dissolution to be refunded to member insurers upon dissolution of the JUA.
- A JUA would not necessarily make coverage available to all health care providers seeking coverage. The JUA would be allowed to set minimum underwriting requirements, and health care providers would have to meet these underwriting requirements in order to qualify for coverage. Therefore, a JUA may not be able to help providers who, for example, have had several claims. (The last JUA rejected applicants who had more than three lawsuits in the past five years or more than two lawsuits in the past two years.)
- There are certain administrative responsibilities and costs associated with setting up, maintaining, and ultimately dissolving a JUA. These include employing accountants to prepare annual tax statements, employing attorneys to oversee the legal affairs of the JUA, employing actuaries to

review the JUA's rates, paying a servicing carrier to operate the JUA (i.e. to pay the expenses of issuing policies, billing policyholders, and paying claims), and paying a service provider at the time of dissolution to distribute to policyholders any assets remaining in the stabilization reserve fund. To illustrate, after the JUA had been granted the authority to dissolve and all policies had expired, the income statements for the nine months ending September 30 of 1994, 1995, and 1996 showed that the JUA's management fees, professional fees, and board expenses alone ranged anywhere from \$48,551 to \$53,683. Prior to its dissolution, the JUA's servicing carrier fees and professional fees alone for the years 1987, 1988, 1989, and 1990 ranged anywhere from \$317,320 to \$544,349.

- Because the insurance code calls for the dissolution of the JUA when coverage is determined to be reasonably available in the voluntary market, the establishment of a JUA becomes a relatively short-term endeavor. Consequently, JUAs are likely to be established and dissolved a number of times over a period of years due to the cyclical nature of the insurance market. Furthermore, the length of time that it takes to dissolve a JUA is considerable. For example, in 1992, due to the small number of policies remaining in the JUA (which resulted in an inability to remain self-supporting as required under § 38.2-2801), the SCC issued an order granting a request to commence dissolution. The final order of dissolution was not issued until 2001. The reason it took so long for the final dissolution was primarily because of the difficulty in finding a carrier willing to take over the liabilities of the remaining policies. However, it should also be noted that when a JUA dissolves, any moneys remaining in the stabilization reserve fund must be distributed back to all policyholders that contributed to the fund. If those policyholders are deceased, their heirs must be located. If their heirs cannot be located, it must go through the escheat process. These procedures are very time consuming.
- It takes time to investigate and make a determination as to whether medical malpractice insurance cannot be made reasonably available in the voluntary market. Because of the cyclical nature of the insurance market, by the time the determination is made, the market is usually changing and coverage is becoming more available, thus either (i) eliminating the need altogether to activate a JUA or (ii) reducing the number of policyholders to the point where the JUA cannot be maintained on a self-supporting basis as required under § 38.2-2801. According to the Bureau's survey results, it does not appear that the number of health care providers who cannot obtain coverage in the voluntary market would be sufficient to maintain the JUA on a self-supporting basis. As stated previously in this report, the number necessary to maintain the JUA on a self-supporting basis is estimated to be around 500. According to the Bureau's surveys, meetings, and consumer complaint information, it appears that only a small number of health care providers would seek coverage through the JUA. In addition, as previously stated in the report, at the time the SCC issued the order granting dissolution in 1992, it was noted in the testimony of the chairman of the board of directors of the JUA that nine

licensed insurers were seeking to write new business and that over 20 risk retention groups and purchasing groups were authorized in Virginia. This compares with our current number of 15 insurers that indicated on our survey that they are seeking to write new business for physicians (ten licensed insurers,⁵ two risk retention groups, and three surplus lines insurers) as well as approximately 20 purchasing groups.

⁵ Two of these insurers are only seeking to write a specific class of business, and one company is an affiliate of another.

CONCLUSION AND RECOMMENDATIONS

In order to activate a JUA under § 38.2-2801 of the Code of Virginia, the Commission must find that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care. The Bureau's findings do not indicate that a significant number of any class, type, or group of health care providers cannot obtain medical malpractice coverage in the voluntary market. Therefore, the Bureau does not recommend that a JUA be activated at this time.

If the General Assembly were to decide that it would be in the public interest to activate a JUA *regardless* of the number of providers in any class, type, or group of health care who cannot find medical malpractice coverage in the voluntary market, certain statutory changes would need to be considered in Chapter 28 of Title 38.2 (§ 38.2-2800 et seq.) of the Code of Virginia. These would include (i) removing the requirement that coverage cannot be made reasonably available for a *significant* number of any class, type, or group of providers; (ii) removing the requirement that the JUA be self-supporting and addressing the nature and scope of any subsidization; and (iii) removing reference to any of the provisions that require the JUA to be dissolved once the Commission determines that medical malpractice insurance *can* be made reasonably available in the voluntary market.

If all provisions pertaining to the dissolution of the JUA were deleted from the Code of Virginia, the JUA would remain in effect after it became activated, and it would never be dissolved. This would eliminate the delay involved in investigating the marketplace to demonstrate that a JUA is needed. It would also eliminate having to incur the initial start up costs as well as the administrative delays involved in activating a JUA, such as setting up a board of directors, putting into place a plan of operation, finding a servicing carrier, and hiring consultants to perform certain functions associated with running a JUA, and it would eliminate the administrative costs of later dissolving one. It would, however, result in administrative costs being incurred on an on-going basis. Furthermore, eliminating the requirement that the JUA be maintained on a self-supporting basis would allow the JUA to operate with just a small number of policyholders and would shift the burden of providing adequate funding from the JUA's own policyholders to the liability insurers doing business in the Commonwealth, and subsequently to their policyholders. Consequently, if the General Assembly were to decide that having a JUA for even a small number of providers would be in the public's interest, a large portion of the cost of maintaining the JUA would ultimately become the responsibility of the insurance-buying public at large rather than the responsibility of the health care providers insured by the JUA. This decision would have to be made by the General Assembly.

APPENDIX

VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

REENROLLED

CHAPTER 1026

An Act to amend and reenact § 38.2-2801 of the Code of Virginia, relating to the medical malpractice joint underwriting association; activation.

[S 1316]

Approved April 2, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-2801 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-2801. Association activation; members; purpose; determinations by Commission; powers of association.

A. ~~After investigation, notice, and hearing,~~ The Commission shall ~~be empowered to~~ activate a joint underwriting association if, *after investigation, notice, and hearing*, it finds that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care. The association shall consist of all insurers licensed to write and engaged in writing liability insurance within this Commonwealth on a direct basis except those exempted from rate regulation by subsection C of § 38.2-1902. Each such insurer shall be a member of the association as a condition of its license to write liability insurance in this Commonwealth.

B. The purpose of the association shall be to provide a market for medical malpractice insurance on a self-supporting basis without subsidy from its members.

C. 1. The association shall not commence underwriting operations for any class, type or group of providers of health care until it is activated by the Commission. At the direction of the Commission, the association shall commence operations in accordance with the provisions of this chapter.

2. If the Commission determines at any time that medical malpractice insurance can be made reasonably available in the voluntary market for any class, type or group of providers of health care, the association shall, at the direction of the Commission, cease its underwriting operations for that class, type or group of providers of health care.

D. The Commission shall also determine after investigation and a hearing whether the association shall be the exclusive source of medical malpractice insurance for any class, type or group of providers of health care and the type of policy or policies that shall be issued to any class, type or group of providers of health care. If the Commission determines that a claims-made policy will be issued to any class, type or group of providers of health care, the Commission shall also provide for the guaranteed availability of insurance that covers claims that (i) result from incidents occurring during periods when the basic claims-made policies are in force, and (ii) are reported after the expiration of the basic claims-made policies. The Commission may from time to time after an investigation and hearing reexamine and reconsider any determination made pursuant to this subsection.

E. Pursuant to this chapter and the plan of operation required by § 38.2-2804, the association shall have the power on behalf of its members to: (i) issue, or cause to be issued, policies of medical malpractice insurance to applicants, including incidental coverages, subject to limits as specified in the plan of operation but not to exceed ~~one \$1 million dollars~~ for each claimant under any one policy and ~~three \$3 million dollars~~ for all claimants under one policy in any one year; (ii) underwrite the insurance and adjust and pay losses on the insurance; (iii) appoint a service company or companies to perform the functions enumerated in this subsection; (iv) assume reinsurance from its members; and (v) reinsure its risks in whole or in part.

2. That the State Corporation Commission shall immediately commence an investigation of the voluntary market for medical malpractice insurance as provided for in § 38.2-2801. The Commission shall report its findings and recommended actions to the Governor and the chairmen of the Commerce and Labor committees of the General Assembly no later than December 31, 2003.

3. That an emergency exists and this act is in force from its passage.

**Virginia Bureau of Insurance (BOI)
2003 Medical Malpractice Survey**

INSURER: _____ **INSURER'S NAIC #:** _____ **NAIC GROUP #:** _____

RETURN TO: Eric Lowe

- Please answer the following questions; explain any answers as necessary.
- Please return survey by 7/21/2003
- Questions apply ONLY to the medical malpractice sublines identified in Section A and to Virginia business ONLY, unless stated otherwise.

E-mail Address: elowe@scc.state.va.us
1300 E. Main Street, P.O. Box 1157
Richmond, VA 23218
Telephone #: (804) 371-9628
Fax #: (804) 371-9396

If the insurer is a member of a group identified by a group NAIC code, please have the same person respond to all sections of the survey for all insurers within the group.

A.	What The Insurer Writes (Check "Yes" or "No"). Does your company write:	Physicians & Surgeons Professional Liability (P&S)		Hospital Professional Liability (HP)		Nursing Home Professional Liability (NHP)	
		Yes	No	Yes	No	Yes	No

B.	For the following, please ENTER ONE number in each category. If your insurer does not write a subline, enter "N/A." Questions apply only to sublines identified in columns 1B-3B to the right.	"1" Means	Range					"5" Means	Col	Col	Col
			1	2	3	4	5		1B P&S	2B HP	3B NHP
1.	What is your opinion of the current level of competition in Virginia for each subline?	No Competition	1	2	3	4	5	Intense Competition			
2.	How important is the subline to your company's overall Virginia presence?	Not Very Important	1	2	3	4	5	Extremely Important			
3.	To what extent is your company actively seeking NEW business in Virginia for each subline?	Not Actively Seeking New Business	1	2	3	4	5	Intensely Seeking New Business			
4.	If your response to 3 was "1" or "2," what is the major reason you are not seeking new business to a greater degree: 1=adverse Virginia losses; 2=corporate decision based on national results; 3=reinsurance problems; 4=reunderwriting and/or self-imposed moratorium; 5=other.	Enter N/A if you did not respond with a "1" or "2" to question 3	Explain #5 (other) response here:								
5.	Has the number of new business declinations changed for your company in 2003 as compared to 2002?	Substantial Increase In New Business Declinations	1	2	3	4	5	Substantial Decrease In New Business Declinations			
6.	If your response to 5 was "1" or "2," what is the major reason you have increased your declinations: 1=adverse Virginia losses; 2=corporate decision based on national results; 3=reinsurance problems; 4=more restrictive eligibility requirements; 5=other.	Enter N/A if you did not respond with a "1" or "2" to question 5	Explain #5 (other) response here:								
7.	Has the number of nonrenewals changed for your company in 2003 as compared to 2002?	Substantial Increase In Nonrenewals By Insurer	1	2	3	4	5	Substantial Decrease In nonrenewals By Insurer			
8.	If your response to 7 was "1" or "2," what is the major reason your nonrenewals have increased: 1=adverse Virginia losses; 2=corporate decision based on national results; 3=reinsurance problems; 4=reunderwriting; 5=other.	Enter N/A if you did not respond with a "1" or "2" to question 7	Explain #5 (other) response here:								
9.	Based on your perception of the Virginia market in general, what is your assessment of overall pricing levels in Virginia for each subline?	Extremely Low Prices	1	2	3	4	5	Extremely High Prices			
10.	Have your rates for each subline substantially changed in 2003 as compared to 2002?	Rates Decreased Substantially	1	2	3	4	5	Rates Increased Substantially			
11.	Have your prices (after all applicable credits and/or debits) for the coverage for each subline changed in 2003 as compared to 2002?	Price Decreased Substantially	1	2	3	4	5	Price Increased Substantially			
12.	Based on your perception of the Virginia market in general, has coverage availability for each subline changed in 2003 as compared to 2002?	Less available	1	2	3	4	5	More Available			
13.	What has been your company's historical Virginia underwriting profitability for the last 10 years?	Very Low Profitability	1	2	3	4	5	Very High Profitability			
14.	If your response to question 13 was "1" or "2," what is the major reason for your company's low Virginia underwriting profitability: 1= loss severity; 2=loss frequency; 3=higher than normal operating expenses; 4 =relaxed underwriting standards during the past five years; 5=other.	Enter N/A if you did not respond with a "1" or "2" to question 13	Explain #5 (other) response here:								

15.	How would you assess your company's underwriting stance in 2003?	Becoming Very Conservative	1	2	3	4	5	Becoming Very Liberal			
16.	If you responded to question 15 with a "1" or "2," why is your company becoming more conservative in Virginia: 1=Virginia loss history; 2=higher than normal operating expense; 3=national corporate decision; 4=reinsurance problems; 5=other.	Enter N/A if you did not respond with a "1" or "2" to question 15	Explain #5 (other) response here:								
17.	How many years has it been since your company took a rate increase in Virginia for each of the applicable sublines? If more than 5 years, enter "5".	Enter % of rate increase also	1	2	3	4	5		#	#	#
									%	%	%
18.	To what degree is each subline a major subline, nationally, for your company?	Not A Major Subline Nationally	1	2	3	4	5	A Major Subline Nationally			
19.	How easy is it to enter the Virginia market for the subline?	Extremely Difficult	1	2	3	4	5	Extremely Easy			
20.	To what degree is obtaining reinsurance for your company problematic for these sublines?	Reinsurance Is Problematic	1	2	3	4	5	Reinsurance Is Not Problematic At All			
21.	If you responded to question 20 with a "1" or "2," what is the major reason causing the problem: 1=cost too high; 2=coverage too limited; 3=cannot find any reinsurer willing to take risk; 4=retention is too high; 5=other.	Enter N/A if you did not respond with a "1" or "2" to question 20	Explain #5 (other) response here:								
22.	To what degree do you believe an underwriting/insurance cycle impacts each subline?	No Impact	1	2	3	4	5	Major Impact			
23.	If your company received a Property & Casualty license from the BOI within the past three years, how would you rate the ease of obtaining this license? (Enter N/A if question does not apply.)	Extremely Difficult	1	2	3	4	5	Extremely Easy			

Specialties the Company Will Underwrite:

Physicians and Surgeons

Plastic Surgeons Yes No	Neurosurgeons Yes No	OB/GYNs Yes No	Emergency Room Physicians Yes No
General Surgeons Yes No	Family Practitioners w/OB/GYN exposure Yes No	Family Practitioners wo/OB/GYN exposure Yes No	Radiologists Yes No
Anesthesiologists Yes No	Surgeons Performing Elective Surgery Yes No	Physicians w/correctional system exposure Yes No	Pathologists Yes No

Will your company provide prior acts coverage for claims-made policies? Yes No Conditionally: _____
Please Explain

Does your company have any geographic restrictions on writing policies in Virginia? (i.e. Northern Virginia, Tidewater, Richmond, etc.) Yes No
If Yes, list where and what restrictions are imposed? _____

Hospitals

Community Hospitals Yes No	Critical Care Hospitals Yes No	Rehabilitative Hospitals Yes No	Psychiatric Hospitals Yes No
--------------------------------------	--	---	--

Will your company provide prior acts coverage for claims-made policies? Yes No Conditionally: _____
Please Explain

Nursing Homes

For-Profit Yes No	Not for Profit Yes No	Skilled Care Yes No	Assisted Living Yes No
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Will your company provide prior acts coverage for claims-made policies? Yes No Conditionally: _____
Please Explain

C. Company Contact Information			
Name of Person Completing Form	Telephone #	Fax #:	E-Mail Address:

	<u>Physicians and Surgeons</u>	<u>Hospitals</u>	<u>Nursing Homes</u>
Q. 1 Has any Virginia client or potential Virginia client requested coverage for Medical Malpractice insurance since July 1, 2002?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Q. 2 Have you actually written any coverage in this line in the surplus or admitted market since July 1, 2002	Yes, Surplus <input type="checkbox"/> Yes, Admitted <input type="checkbox"/> No <input type="checkbox"/>	Yes, Surplus <input type="checkbox"/> Yes, Admitted <input type="checkbox"/> No <input type="checkbox"/>	Yes Surplus <input type="checkbox"/> Yes Admitted <input type="checkbox"/> No <input type="checkbox"/>
Q. 3 Are the Company(s) you normally deal with for medical malpractice currently seeking new business in each of these lines?	Yes, Surplus <input type="checkbox"/> Yes, Admitted <input type="checkbox"/> No <input type="checkbox"/>	Yes, Surplus <input type="checkbox"/> Yes, Admitted <input type="checkbox"/> No <input type="checkbox"/>	Yes, Surplus <input type="checkbox"/> Yes, Admitted <input type="checkbox"/> No <input type="checkbox"/>
Q. 4 Relative to policy terms and conditions currently in force, under what circumstances would the company(s) you normally deal with offer renewals in each line?	<p><u>Price:</u></p> Lower <input type="checkbox"/> Same <input type="checkbox"/> Higher <input type="checkbox"/> <u>Terms/Conditions</u> Less Strict <input type="checkbox"/> Same <input type="checkbox"/> More Strict <input type="checkbox"/>	<p><u>Price:</u></p> Lower <input type="checkbox"/> Same <input type="checkbox"/> Higher <input type="checkbox"/> <u>Terms/Conditions</u> Less Strict <input type="checkbox"/> Same <input type="checkbox"/> More Strict <input type="checkbox"/>	<p><u>Price:</u></p> Lower <input type="checkbox"/> Same <input type="checkbox"/> Higher <input type="checkbox"/> <u>Terms/Conditions</u> Less Strict <input type="checkbox"/> Same <input type="checkbox"/> More Strict <input type="checkbox"/>

<p>Q. 5 Over the next 12 months, what is your opinion of the circumstances under which new business in each line might be written by the company(s) you normally deal with?</p>	<p style="text-align: center;"><u>Price:</u></p> <p>Lower <input type="checkbox"/></p> <p>Same <input type="checkbox"/></p> <p>Higher <input type="checkbox"/></p> <p style="text-align: center;"><u>Terms/Conditions</u></p> <p>Less Strict <input type="checkbox"/></p> <p>Same <input type="checkbox"/></p> <p>More Strict <input type="checkbox"/></p>	<p style="text-align: center;"><u>Price:</u></p> <p>Lower <input type="checkbox"/></p> <p>Same <input type="checkbox"/></p> <p>Higher <input type="checkbox"/></p> <p style="text-align: center;"><u>Terms/Conditions</u></p> <p>Less Strict <input type="checkbox"/></p> <p>Same <input type="checkbox"/></p> <p>More Strict <input type="checkbox"/></p>	<p style="text-align: center;"><u>Price:</u></p> <p>Lower <input type="checkbox"/></p> <p>Same <input type="checkbox"/></p> <p>Higher <input type="checkbox"/></p> <p style="text-align: center;"><u>Terms/Conditions</u></p> <p>Less Strict <input type="checkbox"/></p> <p>Same <input type="checkbox"/></p> <p>More Strict <input type="checkbox"/></p>
<p>Q. 6 What are the names of the companies you represent or normally deal with for medical malpractice for each of the lines?</p>			
<p>Q. 7 If you place medical malpractice business in the surplus market, do you go through another agent or surplus lines broker?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
<p>Q. 8 Are you experiencing difficulties obtaining prior acts coverage for insureds changing companies due to insurer withdrawals or insolvencies?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If yes: please give details on a separate sheet</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If yes: please give details on a separate sheet</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If yes: please give details on a separate sheet</p>

Name of Agency: _____

Person Completing Survey _____

Telephone Number _____

Please complete the survey by August 22, 2003 and return it to Eric Lowe, Bureau of Insurance, Box 1157, Richmond, VA 23218 or fax it to the attention of Eric Lowe at (804) 371-9396.

PHYSICIAN MALPRACTICE INSURANCE SURVEY

Instructions

- **Only physicians** should complete the survey.
- This survey is **anonymous**. The Bureau will report only aggregated results.
- Please fill out this form completely. When finished, you may either fax it to (804) 371-9396 or mail it to Eric Lowe, SCC Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218.
- The deadline for receipt of surveys is **August 1, 2003**.

About Your Practice

1.	Specialty		3.	Years in clinical practice	
2.	Current Status	<input type="checkbox"/> Active <input type="checkbox"/> Retired	4.	Zip Code of your main office	
			5.	Number of physicians in your practice	

About Your Professional Liability Coverage, Cost, Carrier and Claims History

	Last Year	This Year
6. Did you purchase professional liability coverage? 6a. If yes, are you covered through a group or as an individual ? 6b. Please indicate your policy limits .	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Group <input type="checkbox"/> Individual <input type="checkbox"/> \$2M/\$6M <input type="checkbox"/> \$1.6M/\$4.8M <input type="checkbox"/> \$1M/\$3M <input type="checkbox"/> Other:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Group <input type="checkbox"/> Individual <input type="checkbox"/> \$2M/\$6M <input type="checkbox"/> \$1.7M/\$5.1M <input type="checkbox"/> \$1M/\$3M <input type="checkbox"/> Other:
7. If you purchased coverage, how much was your annual premium ? [Please include cost of prior acts.]	\$ _____	\$ _____
8. If you purchased coverage, who was your insurer ?	_____	_____
9. Has your coverage been cancelled or non-renewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. If your coverage was cancelled or non-renewed, were you able to buy " prior acts " coverage from your new insurer?	<input type="checkbox"/> Yes <input type="checkbox"/> No If No, why not? _____	<input type="checkbox"/> Yes <input type="checkbox"/> No If No, why not? _____
11. If your coverage was cancelled or non-renewed, did you purchase the extended reporting period endorsement (" tail ") from your old insurer?	<input type="checkbox"/> Yes <input type="checkbox"/> No If No, why not? _____	<input type="checkbox"/> Yes <input type="checkbox"/> No If No, why not? _____
12. Do you have past or pending claims ? [Please count ALL claims even if eventually dismissed or won]	Claims: Open _____ Closed _____	Claims: Open _____ Closed _____

Please indicate whether you have taken or are seriously considering any of the following actions:

Action	Already Taken?	Planned or Seriously Considering?	Comments
13. "Going bare"	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Closing practice, retiring early, or moving to another State	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Your age: _____
15. Ceasing to offer high risk procedures	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Which procedures? _____
15a. For <i>Obstetricians</i> , stopped delivering babies	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Prior number of deliveries per year: _____
15b. For <i>Radiologists</i> , stopped reading mammograms	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Prior number of mammograms per year: _____
16. Cutting back on staff or delaying purchase of equipment	<input type="checkbox"/> Cutting staff <input type="checkbox"/> Delaying purchases	<input type="checkbox"/> Cutting staff <input type="checkbox"/> Delaying purchases	Which positions or equipment?
17. Limiting practice in:			Comments: _____ _____ _____ _____
▪ Nursing Home	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
▪ Hospital ER	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
▪ Ambulatory Surgery Center	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
▪ Other:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

18. What **effect on your patients** has the increase in the cost of professional liability premiums had? [Check all that apply.]

- | | |
|---|--|
| <input type="checkbox"/> Some high-risk patients no longer served | <input type="checkbox"/> Some high-risk services no longer offered |
| <input type="checkbox"/> Longer wait times for an appointment | <input type="checkbox"/> More tests for defensive reasons |
| <input type="checkbox"/> Higher charges | <input type="checkbox"/> Other: _____ |

THANK YOU!

Please fax **both pages** of completed form to (804) 371-9396
Or mail in envelope provided to:

Eric C. Lowe
Bureau of Insurance
State Corporation Commission
P. O. Box 1157
Richmond, VA 23218

Hospital Malpractice Insurance Survey

Instructions

- This survey is **anonymous**. The Bureau will report only aggregated results.
- Please fill out this form completely. When finished, you may either fax it to Eric Lowe at (804) 371-9396 or mail it to Eric Lowe, SCC Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218.
- The deadline for receipt of surveys is **August 15, 2003**.

About your facility

1. TYPE OF HOSPITAL

- General Hospital
- Children's Hospital
- Psychiatric Hospital
- Specialty Hospital
(Specify) _____
- Community Hospital
- Other (Specify) _____

2. TYPE OF OWNERSHIP

- Sole Proprietorship
- For Profit Corporation
- Not-for-Profit Corporation
- Partnership

About your facility's Professional Liability Coverage, Cost, Carrier, and Claims History

- | | This Year | Last Year |
|---|--|--|
| 3. Did you purchase professional liability coverage? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Please indicate your policy limits : | \$ _____ | \$ _____ |
| 5. If you purchased coverage, how much was your annual premium?
[Please include cost of "prior acts" coverage.] | \$ _____ | \$ _____ |
| 6. If you purchased coverage, who was your insurer? | _____ | _____ |
| 7. Has your coverage been cancelled or non-renewed? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 8. If your coverage was cancelled or non-renewed, were you able to buy "prior acts" coverage from your new insurer? | | |

This year: Yes No If No, why not? _____

Last year: Yes No If No, why not? _____

9. If your coverage was cancelled or non-renewed, did you purchase the extended reporting period endorsement ("tail") from your old insurer?

This year: Yes No

If No, why not? _____

Last year: Yes No

If No, why not? _____

10. Do you have past or pending claims?

[Please count ALL claims even if eventually dismissed or won]

Claims:

This Year

Open _____

Closed _____

Claims:

Last Year

Open _____

Closed _____

Please indicate whether you have taken or are seriously considering any of the following actions:

Action Already Taken?

Planned or Seriously Considering?

11. "Going bare"

Yes No

Yes No

12. Closing facility

Yes No

Yes No

13. Ceasing to offer

Yes No

Yes No

high risk procedures

Which procedures?

Additional Comments?

14. Have you cut back on staff or delayed purchasing equipment?

This Year

Cut staff

Delayed purchases

Last Year

Cut staff

Delayed purchases

Which positions and/or equipment?

15. Have you limited practice in:

- | | This Year | Last Year |
|--|--|--|
| <input type="checkbox"/> Nursing Home | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Hospital ER | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Ambulatory Surgery Center | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Comments:

16. What **effect on your patients** has the cost of professional liability premiums had?
[Check all that apply.]

- | | |
|---|--|
| <input type="checkbox"/> Some high-risk patients no longer served | <input type="checkbox"/> Some high-risk services no longer offered |
| <input type="checkbox"/> Longer wait times for an appointment | |
| <input type="checkbox"/> More tests for defensive reasons | <input type="checkbox"/> Higher charges |
| <input type="checkbox"/> Other: _____ | |

17. TYPE(S) OF PATIENT CARE OFFERED (Check all that apply.)

- | | | |
|---|---|---|
| <input type="checkbox"/> General | <input type="checkbox"/> Intensive Care | <input type="checkbox"/> Psychiatric |
| <input type="checkbox"/> Rehabilitation | <input type="checkbox"/> Surgery, General | <input type="checkbox"/> Alcoholic dependency |
| <input type="checkbox"/> Medical, General | <input type="checkbox"/> Surgery, Specialty | <input type="checkbox"/> Dental |
| <input type="checkbox"/> Medical, Specialty | <input type="checkbox"/> Transplants | <input type="checkbox"/> Drug Addiction |
| <input type="checkbox"/> Outpatient | <input type="checkbox"/> Trauma Center | <input type="checkbox"/> Geriatrics |
| <input type="checkbox"/> Pediatrics | <input type="checkbox"/> 911 Receiving Center - EMS | |

18. TRAINING SERVICES OFFERED BY HOSPITAL/FACILITY

A. Teaching Hospital?

- Yes No

B. Is Hospital used for training programs of other hospitals or schools?

- Yes No

C. Does Hospital use the facilities of other hospitals for training programs?

- Yes No

19. NUMBER OF HOSPITAL BEDS (by specialty)

- Number of Certified Beds _____
- Medical/Surgical _____
- ICU/CC _____
- Obstetrical _____
- Pediatric _____
- Psychiatric _____
- Rehabilitation _____
- Alcohol/Drugs _____
- Long Term Care _____
- Other (specify) _____

THANK YOU!

Please fax **all pages** of completed form to (804) 371-9396
Or mail to:

Eric C. Lowe
Bureau of Insurance
State Corporation Commission
P. O. Box 1157
Richmond, VA 23218

Nursing Home Survey

1. Has your facility attempted to purchase or renew **General Liability Insurance** and/or **Professional Liability Insurance** during the past 12 months?
- YES - General Liability Insurance (GO TO #1b & 1c)
 YES - Professional Liability Insurance (GO TO #1b & 1c)
 NO (GO TO #1a)

1a. If NO, why not?

- I have established a self-insurance program
 Coverage is not available
 Coverage is not affordable

If you answered NO to #1, please go to #9

1b. How many different agents or other sources did you contact to obtain quotes or offers?
_____ agents or sources

1c. How many quotes did you obtain for this year's general liability insurance _____?
For this year's professional liability insurance _____?

2. Were you successful in purchasing or renewing **General Liability Insurance** and/or **Professional Liability Insurance** during the past 12 months?

- YES - General Liability Insurance
 YES - Professional Liability Insurance
 NO (GO TO #2a.)

2a. If NO, why not?

- Coverage was not available
 The price quoted was too expensive
 Other _____

If you answered NO to #2, please go to #9

3. Were you forced to change any aspect of your business or business procedures because of a problem with availability or affordability of general liability or professional liability insurance?

- YES (GO TO #3a.)
 NO (GO TO #4)

3a. What change(s) did you make?

- Did not offer a particular service
 Raised prices
 Reduced expenses or operations
 Other _____

4. Has your **General Liability Insurance** or **Professional Liability Insurance** been cancelled or non-renewed in the past 12 months?

- YES - General Liability Insurance (GO TO #4a & #4b)
 YES - Professional Liability Insurance (GO TO #4a & #4b)
 NO

4a. What reason was given? _____

- 4b. Replacement coverage has been obtained.
 Replacement coverage has **not** been obtained. Why not?

5. Which of the following describes your purchase of **General Liability Insurance** and/or **Professional Liability Insurance** in the past 12 months:
- Less difficult
 More difficult
 About the same
6. Compared to previous insurance policies, is coverage in the policies purchased in the past 12 months:
- Broader than previous policies
 About the same as previous policies
 More restrictive than previous policies
 Did not have insurance previously
7. Has the cost of **General Liability Insurance** or **Professional Liability Insurance** for your facility increased significantly in the past 12 months?
- YES - General Liability Insurance has increased _____% (GO TO #7a)
 YES - Professional Liability Insurance has increased _____% (GO TO #7b)
 NO
- 7a. Was the increase in **General Liability Insurance** due to:
- Increase in the number of beds
 Other changes in operations
 Increase in rates
 Other _____
- 7b. Was the increase in **Professional Liability Insurance** due to:
- Increase in the number of beds
 Other changes in operations
 Increase in rates
 Other _____
8. What is the name of your current insurance company? _____
9. Does your facility provide skilled nursing care?
 YES
 NO
10. Is your facility operated on a for-profit, or a not-for-profit basis?
 For-Profit
 Not-For-Profit
11. What is the average number of patients and/or residents accommodated by your facility?

Please return completed survey by March 3, 2003 to:

Virginia Bureau of Insurance
 Attn: Andrew Iverson
 P.O. Box 1157
 Richmond, VA 23218

Licensed Companies Writing New Business for Physicians and Surgeons

Company Name	Commonwealth Medical Liability Insurance Company
Address	1115 30th Street NW
	Washington, DC 20007
Phone Number	(800) 613-3615
Restrictions	None, but exclude certain procedures

Company Name	MAG Mutual Insurance Company
Address	P.O. Box 52979
	Atlanta, GA 30355
Phone Number	(800) 282-4882
Restrictions	Must meet underwriting criteria

Company Name	Medical Mutual Insurance Company of North Carolina
Address	700 Spring Forest Road
	Raleigh, NC 27624
Phone Number	(800) 662-7917
Restrictions	Write through a purchasing group.

Note: For all companies shown, any application submitted as new business will be underwritten using the company's underwriting guidelines and pricing criteria.

Company Name	Professionals Advocate Insurance Company
Address	225 International Circle
	Hunt Valley, MD 21030
Phone Number	(800) 492-0193
Restrictions	Some underwriting restrictions on a limited number of high risk procedures

Company Name	The Doctors' Company, An Interinsurance Exchange
Address	185 Greenwood Road
	Napa, CA 94558
Phone Number	(800) 421-2368
Restrictions	None

Company Name	The Medical Assurance Company, Inc
Address	P. O. Box 590009
	Birmingham, AL 35259-0009
Phone Number	(205) 877-4400
Restrictions	Highly selective underwriting criteria but don't exclude based on speciality. Frequently writes through a purchasing group.

Note: For all companies shown, any application submitted as new business will be underwritten using the company's underwriting guidelines and pricing criteria.

Company Name	The Medical Protective Company
Address	P. O. Box 15021
	Fort Wayne, IN 46885-5021
Phone Number	(804) 272-1899
Restrictions	Not competitive in low hazard classes but will write if meet criteria

Note: For all companies shown, any application submitted as new business will be underwritten using the company's underwriting guidelines and pricing criteria.

Recognized Purchasing Groups for Doctors, Surgeons & Hospitals that may be underwritten by either licensed insurers or surplus lines insurers

Ambulatory Care Emergency PG, Inc.
820 Gessner, Suite 1000
Houston, TX 77024
William J. Reese, Jr.
(713) 461-4000

Acoms Professional Liability Risk PG
1090 Northchase Parkway South, Suite 200
Marietta, GA 30067
Richard T. Loudon
(800) 628-3903

American Multi-Specialty Professional
Liability Group
1301 Capital of Texas Highway, Suite C 300
Austin, TX 78746
Judy Shepperd
(512) 328-1520

Physicians Protective Insurance Risk PG, Inc.
C/O Medical Professional Liability Agency, Ltd.
2 Depot Plaza
Bedford Hills, NY 10507
Forrest S. Pullen
(800) 323-0371

Staff Physicians Purchasing Group, Inc.
820 Gessner, Suite 1000
Houston, TX 77024
William J. Reese, Jr.
(713) 461-4000

MAI Physicians & Surgeon PG
100 Brookwood Place
P. O. Box 590009
Birmingham, AL 35209-0009
Patrick O'Doherty
(205) 282-6242

Health Care Purchasing Group, Inc.
820 Gessner, Suite 1000
Houston, TX 77024
William J. Reese, Jr.
(713) 461-4000

MAI Hospital & Medical Facilities PG
100 Brookwood Place
P. O. Box 590009
Birmingham, AL 35209-0009
Jerry Chiarella
(205) 282-6242

Medical Liability Insurance PG
C/O Law Offices of Charles O'Brien
2125 Oak Grove Road, Suite 325
Walnut Creek, CA 94598
Norm Miley
(800) 421-2368

Midwestern Association of Obstetricians &
Gynecologists Risk Purchasing Group
502 Evergreen Place Court
Louisville, KY 40223
Jack W. Smith or Jerome H. Boyett
(800) 216-1056 (502) 339-5940

Pathologists Liability Insurance PG
1900 Powell Street, Suite 545
Emeryville, CA 94608
Norm Miley
(510) 937-4343

Certified Nurse Midwife Risk PG, Inc.
11301 Amherst Avenue, Suite 202
Silver Springs, MD 20902
Mr. Israel Teitelbaum
(301) 933-3373

Physicians Alternative PG, Inc.
820 Gessner, Suite 1000
Houston, TX 77024
William J. Reese, Jr.
(713) 461-4000

Note: Any application submitted as new business will be underwritten using the group's underwriting guidelines and pricing criteria.

Also be sure to review the attached tips pertaining to purchasing groups.

November 5, 2003

Recognized Purchasing Groups for Doctors, Surgeons & Hospitals that may be underwritten by either licensed insurers or surplus lines insurers

Health Care Professionals PG Assoc., Inc.
C/O USA Specialty Group, Inc.
757 S. E., 17th Street, #340
Ft. Lauderdale, FL 33316
Mr. Mark L. Blocker
(954) 525-1776

MedAlliance Professional Liability PG
C/O BCS Insurance Agency
676 North St. Clair Street
Chicago, IL 60611-2997
Mr. David Huske
(312) 951-7711

Healthcare Insurance Group
155 108th Avenue, N. E., Suite 501
Bellevue, WA 98004
Ms. Leslie Asbury
(425) 450-1090

Phoenix Physicians Insurance Risk PG, Inc.
2301 Grant Avenue
Wilmington, DE 19809
Ms. Gina M. Burrow
(253) 770-0283

Select Professional Purchasing Group, LLC
4725 Peachtree Corners Circle, Suite 230
Norcross, GA 30092
Mr. Jack R. Fox
(678) 969-9152

Mid America Association of Physicians
& Surgeons
C/O Professional Benefit Specialists, Inc.
502 Evergreen Place Court
Louisville, KY 40223
Mr. Jack W. Smith
(800) 216-1056

MPFC Purchasing Group, Inc.
5814 Reed Road
Fort Wayne, IN 46835-3568
Edwin H. Fisher, Jr.
(219) 485-9622

MPSA Purchasing Group, Inc.
5814 Reed Road
Fort Wayne, IN 46835-3568
Edwin H. Fisher, Jr.
(219) 485-9622

AMHS Risk Purchasing Group, Inc.
C/O Health Industry Ins. Professional, Inc.
300 S. Wacker Drive, Suite 2600
Chicago, IL 60606
Mr. Gregory J. Suffield
(312) 906-8400

MMIC RPG, Inc.
4505 Falls of the Neuse Rd., 4th Floor
Raleigh, NC 27609
Steven W. Sawyer
(800) 662-7917

National Association of Independent
Healthcare Professionals (NAIHP)
C/O Wood Insurance Group
1430 E. Missouri Avenue, Suite 225
Phoenix, AZ 85014
Deborah A. Giss
(310) 788-4448

Note: Any application submitted as new business will be underwritten using the group's underwriting guidelines and pricing criteria.

Also be sure to review the attached tips pertaining to purchasing groups.

November 5, 2003

**Medical Malpractice Risk Retention Groups that have indicated they
provide coverage to doctors and surgeons recognized in Virginia**

The Virginia Health Systems Alliance Interinsurance Exchange
Risk Retention Group
Charles Bulkema, President
P. O. Box 64649
Burlington, VT 05406-4649

Preferred Physicians Medical Risk Retention Group, Inc.
Edward Carl Mills, President
7000 Squibb Road, Suite 150
Mission, KS 66202-3233

**Note: Any application submitted as new business will be underwritten
using the group's underwriting guidelines and pricing criteria.**

September 4, 2003

Agencies Appointed with Insurers Willing to Write Physicians and Surgeons' Medical Malpractice Insurance

<i>Name</i>	<i>Address</i>	<i>City</i>	<i>State</i>	<i>Zip</i>	<i>Telephone</i>	<i>Note</i>
Howard W. Phillips & Company	2555 Pennsylvania Avenue, NW	Washington	DC	20037	202-331-9200	
Reese, Yeatman & Associate, Inc.	4704 Highland Avenue	Bethesda	MD	20814	301-657-9490	
Wallace & Wallace Insurance Agency	4701 Sangamore Road	Bethesda	MD	20816	301-320-5800	
CBIZ Benefits & Insurance Services of MD	44 Baltimore Street	Cumberland	MD	21502	301-777-1500	
Shannon & Luchs Insurance Agency, Inc.	400 Professional Drive, #360	Gaithersburg	MD	20879	301-670-7370	
Avery W. Hal Insurance Agency, Inc.	308 East Main Street	Salisbury	MD	21801	410-749-3155	Limited to the Eastern Shore of Virginia
Onal & Associates	2 Evergreen Road	Saverna Park	MD	21146	410-975-9711	
AON-Affinity Insurance Services, Inc.	159 East County Line Road	Hatboro	PA	19040	866-815-5776	
Nash & Powers Insurance Co., Inc.	P. O. Box 1568	Bristol	TN	37621	423-764-2700	
Ashcraft Associates	4604-H Pinecrest Office Park Drive	Alexandria	VA	22312	703-354-3501	
Corporate Insurance Management, Inc.	216 S. Peyton Street	Alexandria	VA	23234	703-739-9300	
Leonard L. Brown Insurance Agency, Inc.	P. O. Box 214	Blacksburg	VA	24063	540-553-5331	
PhillipsCox Insurance & Financial Services	10060 Woolen Kitt Court	Bristow	VA	20136	571-259-9215	866-685-4300 - Toll-Free; 703-392-7871- Fax
B&B Insurance Associates, Inc.	5204-B Rolling Road	Burke	VA	22015	703-323-5565	
Coverage, Inc.	14901 Bogle Drive, #201	Chantilly	VA	20151	703-631-8000	
Welch, Graham & Ogden Insurance, Inc.	14310 Sullyfield Circle, Suite 100-B	Chantilly	VA	20151	703-803-1300	
Cabell Insurance Associates, Inc.	P. O. Box 7606	Charlottesville	VA	22906	434-977-5313	
Moses Hayes & Willeford	P. O. Box 3306	Danville	VA	24543	434-793-8322	
Ralph W. Lee & Associates, Inc.	10619 Jones Street, 2nd Floor	Fairfax	VA	22030	703-556-8787	

<i>Name</i>	<i>Address</i>	<i>City</i>	<i>State</i>	<i>Zip</i>	<i>Telephone</i>	<i>Note</i>
First Virginia Insurance Services, Inc.	6402 Arlington Boulevard, Suite 1120	Falls Church	VA	22042	703-241-4444	
Manry-Ravls Corporation	P. O. Box 857	Franklin	VA	23851	800-666-6131	
Cox & Johnson Insurance Agency, Inc.	417 William Street	Fredericksburg	VA	22401	540-373-1531	
Lee-Curtis Freeman, Graves & Hall Ins.	2105 Jefferson Davis Highway	Fredericksburg	VA	22401	540-373-3333	
Independent Insurance Center, Inc.	P. O. Box 2303	Leesburg	VA	20177	703-777-7774	
Mid-State Insurance Agency	P. O. Box 3116	Lynchburg	VA	24503	804-528-1001	
Scott Insurance	P. O. Box 10489	Lynchburg	VA	24506	434-832-2100	
McCrea-Hale Insurance Agency, Inc.	10680-A Crestwood Drive	Manassas	VA	20109	703-368-8158	
Yergey Insurance Agency, Inc.	10550 Linden Lake Plaza, Suite 100	Manassas	VA	20109	703-530-0300	
Burch-Hodges-Stone, Inc.	231 East Church Street	Martinsville	VA	24112	276-632-2161	
Professional Risk Associates	2909 Polo Parkway, Suite 100	Midlothian	VA	23113	804-794-0574	Toll-Free Number 1-800-318-9930
USI Insurance Services Corporation	P. O. Box 120700	Newport News	VA	23612	757-930-4172	
S. L. Nustbaum Insurance Agency	P. O. Box 1708	Norfolk	VA	23501	757-622-4653	
Bankers Ins.-Welton, Duke & Hawks, Inc.	457 Court Street	Portsmouth	VA	23705	757-397-2311	
Asset Protection Group, Inc.	300 Arboretum Place, Suite 650	Richmond	VA	23236	804-323-3854	
Brown & Brown Insurance	P. O. Box 3070	Richmond	VA	23228	540-389-0261	
H. F. Thompson Insurance Agency, Inc.	2515 Waco Street	Richmond	VA	23294	804-672-3039	
MGIS Property & Casualty Ins. Services, Inc.	P. O. Box 4943	Richmond	VA	23233	800-969-6447	
PhillipsCo: Insurance & Financial Services	2611 North Parham Road	Richmond	VA	23294	804-290-8887	800-685-4338 - Toll-Free; 804-290-8878 - Fax
Robins Insurance Agency, Inc.	P. O. Box 71300	Richmond	VA	23255	804-747-1281	
The Medical Society of Virginia	4211 Dover Road	Richmond	VA	23221	804-422-3100	
Chas. Lurford Sons & Associates	P. O. Box 2571	Roanoke	VA	24010	540-982-0200	

<i>Name</i>	<i>Address</i>	<i>City</i>	<i>State</i>	<i>Zip</i>	<i>Telephone</i>	<i>Note</i>
Atlantic Charter Insurance Group	3972 Holland Road #117	Virginia Beach	VA	23452	757-431-0910	
PhillipsCox Insurance & Financial Services	2876 Guardian Lane, Suite 102	Virginia Beach	VA	23452	757-486-2905	800-685-4375 - Toll-Free; 757-486-2907 - Fax
Brooks Agency, Inc.	P. O. Box GT	Williamsburg	VA	23167	757-229-575	
Insurance Center of Winchester, Inc.	P. O. Box 3470	Winchester	VA	22604	540-667-0700	
Partlow Insurance Agency, Inc.	P. O. Box 637	Winchester	VA	22604	540-665-8387	
Bankers Insurance, LLC	P. O. Box 778	Wytheville	VA	24382	276-223-4300	

Tips for Physicians Looking for Medical Professional Liability Coverage

The State Corporation Commission Bureau of Insurance offers the following tips to physicians who are shopping for medical professional liability insurance coverage:

- Shop well in advance of your renewal or expiration date. Your agent should have all of the necessary information to the insurer at least six to eight weeks before your coverage expires. See the attached checklist for the types of information your agent will need.
- If you do not know an agent who can place your coverage, the Bureau of Insurance has a list of agencies that are licensed and appointed with at least one of the insurers on the Bureau's list of "Insurers Writing New Business for Physicians and Surgeons." The Bureau can also provide you with a list of purchasing groups recognized in Virginia that purchase coverage on a group basis. Please contact the Bureau's Property and Casualty Consumer Services Section at (804) 371-9185 or toll free at (800) 552-7945 to obtain this information.
- Contact one or two agents and be sure to ask each agent which insurer will be contacted for a quote. Ask the agent if an application will also be submitted to a surplus lines broker. If so, ask for the name of the surplus lines broker and ask which surplus lines insurers will be contacted. Provide this information to the other agent to avoid multiple applications being submitted to one insurer from different agents. If the application is being submitted to a surplus lines broker, be sure to ask the agent for information on the coverage provided and specifically request information on exclusions.
- If your agent recommends coverage through an unlicensed company (such as a surplus lines insurer or a risk retention group), be aware that, in the case of an insolvency, you will not have coverage through the Virginia Property and Casualty Insurance Guaranty Association. However, if you have had several claims or an open claim, you may only be able to obtain coverage through a company not licensed in Virginia. Ask your agent for information on the financial rating of the company and if the surplus lines insurer has its own guaranty fund. Also, when you shop, feel free to check with the Bureau to see if the company and agent are licensed or authorized to do business in Virginia.
- Be sure the agent fully understands your business. If incorporated, ask the agent what coverage is needed to protect the corporation as well as the individual doctors.
- Ask the agent if you will need to purchase "tail coverage" or if the new insurer will provide coverage for "prior acts." If coverage is offered with two insurers, ask the agent what each insurer charges for "tail coverage." This information may help you decide which insurer has the most competitive price.
- Complete your application for coverage in its entirety. Don't omit any information and be sure to provide as much detail as you can, especially about prior claims. Many insurance companies want 10 years of information; they may also request information about your risk management practices and procedures.
- Discuss deductible options with your agent. These may help lower your premium.
- Find out if your insurance company offers any risk management or loss prevention programs. These programs may help lower your premium and help reduce your exposure to losses.
- If you have any questions or problems, call the Bureau's Consumer Services Section at (804) 371-9185 or toll-free at (800) 552-7945.

INFORMATION CHECKLIST FOR PHYSICIANS SEEKING INSURANCE

Background, Education, and Certifications

- Medical specialty information by percentage of practice.
- Information on medical education, including information on medical school attended, internship information, residency information, and fellowship information, if any.
- Information on medical experience, including information on military discharge (DD214), public health service, moonlighting, locum tenens, and private practice information. Have dates and locations available.
- Information on completed continuing education hours in the past two years.
- Publications, speeches, instruction, etc.
- Information on medical licenses, including state, license number, expiration dates and current status.
- Information on board certifications.

The above information may be contained in a Circulum Vitae, if you have one.

On an "as applicable" basis:

- Complete details including dates and outcomes of any board certification revocations or suspensions, license revocations or suspensions, alcohol or drug addictions and treatments, criminal or sexual misconduct charges, or Medicare or Medicaid charges.

Previous Insurance Information

- Insurance history, including the name, policy number, whether the coverage form was occurrence or claims made, policy period, limits of liability, deductible amount, and prior acts date, for your current carrier, and your first, second, third, and fourth prior carrier, if applicable.
- Information on any insurance company cancellations or non-renewals.
- If your current policy is a claims-made policy, whether you are obtaining tail coverage from your current insurance company.
- Copies of prior policies, if available.

Current Medical Practice Information

- Information on supervision and employment of residents, physician assistants, nurse practitioners, CRNAs, nurse midwives, and other physicians.
- Information on networks or managed care organizations associated with (IPA, PHO, MSO, etc.), including group name, type of organization, and relationship.
- Information on other contractual relationships, other than PPOs, HMOs, IPA, etc.
- Full information on all hospital privileges, including hospital name, location, and type of privilege.
- If any, information on any suspension, denial, revocation, restriction, or other sanctioning of hospital privileges.

Classification and Specialty Identification

- Full information on procedures performed, including details of surgeries, average number of patients seen weekly, specialty practice areas, etc.

Prior Claims History (if any)

- For each claim, patient's name; date of occurrence; insurance carrier; location of occurrence; date claim was reported; date claim was closed (if applicable); copies of subpoenas, pleadings, or judgements; amount reserved on your behalf; and amount paid on your behalf. Provide as complete a description of the allegations as possible.

Important Note

This is just a guide to assist you in gathering the information companies typically request. Discuss this checklist with your agent to see if additional information is needed.

Is there anything I should consider if I decide to purchase insurance coverage through a company other than a licensed insurer?

In addition to licensed insurance companies, you may be able to obtain coverage through a purchasing group, a risk retention group, or a surplus lines insurer. Surplus lines insurers are non-admitted carriers that sell coverage through licensed surplus lines brokers. Purchasing groups and risk retention groups are allowed to be formed pursuant to the federal Liability Risk Retention Act of 1986, and Chapter 51 of Title 38.2. Purchasing groups simply purchase liability insurance on a group basis; unlike risk retention groups, they do not assume any risk.

Because of the federal Liability Risk Retention Act of 1986, the regulatory authority that the Commission may exercise over risk retention groups chartered in other states is not as great as the authority it may exercise over risk retention groups chartered in Virginia. Risk retention groups chartered in other states that are doing business in Virginia must apply to be “recognized” to do business in Virginia, but they are not licensed here. **Risk retention groups and surplus lines insurers are not covered by the Property and Casualty Insurance Guaranty Association, so if a risk retention group or a surplus lines insurer becomes insolvent, its insureds cannot rely on the safety net provided by the guaranty fund.**

Purchasing groups that are domiciled in Virginia must purchase insurance (i) from an insurer licensed here, (ii) from a surplus lines insurer on our “approved” list, or (iii) from a risk retention group “recognized” to do business in Virginia. Purchasing groups that are domiciled outside of Virginia must purchase insurance from an insurer or risk retention group licensed, authorized, or recognized to do business in the purchasing group’s state of domicile.

If you are a resident of Virginia and have purchased coverage through a purchasing group domiciled in another state, you may or may not have coverage under the Virginia Property and Casualty Insurance Guaranty Association in the event of an insolvency. If your purchasing group purchased coverage from an insurer licensed in Virginia, you will have coverage. However, **if your purchasing group purchased coverage from an unlicensed insurer, such as a surplus lines insurer, or from a risk retention group, you will not have coverage under the Property and Casualty Insurance Guaranty Association if the unlicensed insurer or the risk retention group becomes insolvent.**