

N.J. Medical Professional Liability Market Shaken, but Still Stirring, Exec Says

By Sean P. Carr, senior associate editor, BestWeek

PRINCETON, N.J. April 28 (BestWire) — While New Jersey's medical professional liability insurance market is in a better place than it was a handful of years ago, significant challenges remain, said Eric Poe, chief marketing and business development officer of New Jersey Physicians United Reciprocal Exchange.

Former policyholders of Miix Insurance — which went into voluntary solvent run-off in 2002 and was declared insolvent last year — won a break in January, when Mercer County Superior Court Judge Maria M. Sypek ordered a one-year extension to the period allowed for the assertion of claims against Miix. The order was set to expire April 9, which would have left hundreds of cases either in or pending litigation.

The order extended the period in which physicians can receive partial coverage for claims under the New Jersey Property Liability Guarantee Association. The Miix insolvency was particularly notable in that it was the largest provider of medical liability insurance in the state, Poe said.

"It's a pretty scary time for physicians out there because, as we know, O.B.s and pediatricians may actually have a claim that arises as an allegation of an act that occurred five years ago. So, they may actually have a scenario where they will be without coverage," he said.

Part of the Miix legacy is an increased hands-on approach by physicians in selecting their insurers, Poe said. He said, "Physicians are now becoming more aware they can no longer rely upon their agent or broker for advice and they need to do their own independent research on the medical malpractice carrier in which the purchased insurance from."

NJ PURE bills itself as the only direct writer of medical malpractice insurance in New Jersey.

According to a 2008 A.M. Best report, U.S. Medical Malpractice 2007 Market Review, the drop in the frequency of claims is due to enhanced risk management, litigation economics and tort reform. Texas and Florida, two states that passed tort reforms, including liability caps, have seen dramatic decreases in frequency.

A March 2008 report from the Pacific Research Institute, a tort-reform advocacy group, found New Jersey as having one of the worst five tort systems in the United States, in terms of the combination of litigation risk and size of awards (BestWire, March 14, 2008).

Poe noted that New Jersey has both one of the highest per-capita income rates in the United States, but also one of the highest per-capita level of attorneys. "We are not going to be a state that does a tremendous amount in making sure that lawyers don't have reasons to stay employed," he said.

Poe is also chief operating officer of Citizens United Reciprocal Exchange (NJ CURE), a direct writer of automobile insurance.

The top five writers of medical professional liability insurance in New Jersey, according to 2007 A.M. Best Co. state/line product information based on direct premiums written were: MLMIC Group, with a 36.1% market share; MDAdvantage Insurance Company of New Jersey, with 15.0%; ProMutual Group, with 12.8%; American International Group, with 7.6%; and Berkshire Hathaway Insurance Group, with 7.5%.