

Doctor-Owned Malpractice Insurer in State Puts Rate Rise at 10%-15%

By FRANCES CERRA

Malpractice insurance premiums for doctors will go up by only 10 to 15 per cent this year under rates to be announced this week by the new doctor-owned insurance company in New York, a representative of the State Medical Society said yesterday.

The new rates compare with the 196.8 per cent increase proposed last December by the Argonaut Insurance Company, which later announced it would cease writing malpractice insurance in the state altogether.

But the president of the Kings County Medical Society, Dr. Norman Blackman, said that news of the 10 to 15 per cent increase would not change the plans of society members to begin phasing out treatment of patients June 1 to protest the state's new malpractice-insurance law.

The new rates here, which are not yet official, will be effective July 1, when policies previously written by the Argonaut Insurance Company run out and new policies by the doctor-owned company become available.

John P. Gemma, Acting State Superintendent of Insurance, announced yesterday that the doctor-owned group, known as the Medical Liability Insurance Company, had been granted a license. Doctors in the state need not buy the company's policies.

Actuaries Cited

Dr. Blackman said: "I think most doctors know that in the new company's first year its premium can be low because it doesn't actually have to make pay-outs."

He predicted that as the claims begin to accumulate after the first year, the company would be forced to raise premiums 100 to 300 per cent to prevent bankruptcy.

"If it were possible to run a company and raise the premiums 10 to 15 per cent," he said, "don't you think the private insurance companies would have wanted this business?"

Richard Lutz, an official of the New York State Medical

Society's office of indemnity representative, said that the 10 to 15 per cent increase had been calculated by actuaries "on the basis of the claims history in New York State over the past years by the private companies," and that the rates took into account "future trend factors" as well.

Mr. Lutz characterized Argonaut's request for a 196.8 per cent increase as "absurd." He said: "They were overstating the risks. They were simply writing themselves out of the field."

Background of Increase

After Argonaut announced in January that it wanted to raise hospital malpractice premiums by 185 per cent (on top of a November, 1974, increase of 65 per cent), the State Insurance Department announced it would hold hearings on the increase. Before the department had a chance to inspect Argonaut's books, the company announced it was rescinding the increase, but would cease writing the insurance in the state.

The new state malpractice insurance law ordered establishment of a medical malpractice insurance association composed of all insurance companies in the state that write personal-injury liability insurance. According to Mr. Gemma, this association, which is to be non-profit, is being formed, and specific rates for physicians and surgeons will be available within the next two days.

Under the new state law, information on all malpractice claims must be reported to the State Insurance Department. No such requirement previously existed, so that the only complete source of information on malpractice claims has been the private insurance companies.

Suits by Year

Members of the State Medical Society, however, do report to the society about suits. According to Mr. Lutz, the society's statistics cover about 20,000 doctors, which includes about 75 per cent of the doctors in the state.

Mr. Lutz said that in the 1974 calendar year, about 1,200 malpractice suits were filed against

these doctors. In 1973, the number was 1,064; in 1972 it was 1,011; in 1971 it was 803; and in 1970 the figure was 564.

The society also maintains figures that combine the number of suits, claims and potential claims (threats of suit). In 1974 this number was about 2,200; in 1973 it was 2,071; in 1972 it was 1,888; in 1971 it was 1,648, and in 1970 the figure was 1,409.

Thus, the chances of a member of the State Medical Society being sued for malpractice, based on the 1974 figures, is one in 20, and of being threatened with a suit for a claim, one in 10.

This assumes that all doctors run an equal risk of being sued, which is not the case, as is reflected in the different premiums paid by different kinds of doctors and in a study released in 1973 by the United States Department of Health, Education and Welfare.

That study showed that orthopedic surgeons had the highest incidence of malpractice claims, followed by anesthesiologists and then general surgeons. The study also indicated that some individual doctors and hospitals might be more prone to suits than others.

Argonaut's present rates for \$1-million of malpractice insurance range from \$766 for low-risk specialists such as psychiatrists, to \$14,329 for orthopedic surgeons.

Mr. Lutz declined to say in an interview how many members of the State Medical Society had been the subject of more than one malpractice suit.

The question of competence and its relation to malpractice suits is one that is being raised by patient and consumer groups. These groups are concerned that further changes in the state's malpractice laws, as the doctors advocate, will adversely affect patients' rights.

"The medical profession has got itself in a bind," said Louise Lander, a staff analyst for the Health Policy Advisory Center, a nonprofit private organization that is active on health issues. "The profession has always opposed any scrutiny of how they

practice, but the malpractice crisis could be solved if it were possible to regulate the medical profession."

Donald Rubin, president of the Consumer Commission on the Accreditation of Health Services, Inc., which has studied the malpractice issue, said his group believed that any physician or hospital that is the subject of more than one malpractice suit should be subject to official review by licensing boards.

Beneficial Result Seen

"If this were done it would have a beneficial effect on the premium rates," said Mr. Rubin, "because many suits are against incompetent doctors, while most doctors are never hit with a suit for their entire professional lives."

But Dr. Blackman, of the Kings County Medical Society, said he believed most malpractice suits "have no merit." He said he thought "the best doctors have the most malpractice suits against them because they do the riskiest procedures that require the greatest skill."

He and the other members of his society favor stronger disciplinary action against doctors, he said, but they want substantive changes in the state's malpractice law along the lines of the malpractice law recently passed in Indiana. Among other things, that law set a ceiling of \$500,000 on the size of malpractice awards, and established a medical review panel to issue opinions on the merits of malpractice claims that could be submitted to a jury.

"Unless these changes are made," said Dr. Blackman, "we're in for an unpleasant time. It's up to the State Legislature to give us a climate in which we can practice."