

By Physicians. For Physicians.

Effect of Tort Reform on the Medical Malpractice Crisis

MAG Mutual believed strongly in the importance of tort reform, and we're pleased that predictions of favorable claims experience are happening. While the passage of the tort reform law was a giant step forward, the medical community is watching the Georgia Supreme Court to see whether the law will be upheld. If the Supreme Court finds the law unconstitutional in the next few years, the \$350,000 cap on non-economic damages in Georgia will be lost, and liability insurers who prematurely discounted their premiums could face financial disaster, leaving many physicians without insurance.

When the Georgia Supreme Court upholds the law:

- MAG Mutual will roll back medical malpractice insurance premium rates 10 percent immediately upon the Court upholding the \$350,000 cap on non-economic damages
- Plus, MAG Mutual will refund to our insured physicians the difference between the premiums we collected and the reduced actuarial cost of providing insurance from the effective date of the legislation

In addition, due to tort reform's positive impact since it became law in 2005, MAG Mutual Insurance Company announced in April that policyholders renewing between 5/15/06 and 5/14/07 would continue with the same base rates they were previously charged.

In future issues of *The MAGnet*, we will share more interesting stories and letters with you, because MAG Mutual is **For Physicians. By Physicians.**

Risk Management Help is on the Web

Visit us online at www.magmutual.com/risk

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Risk Management Tips

What's New in Patient Safety for 2006?

The JCAHO has revised its National Patient Safety Goals (NPSG). The following is a summary of the items that will have a direct effect on patient safety in your hospitals.

Physicians should consider how they can implement these principles in their own practices, thus improving patient safety in outpatient settings, as well.

1. Staff handing off a patient between shifts, floors or units must now verbally communicate with the person who will be taking care of the patient. That communication must include time to ask and answer questions about the patient's care. This communication may be done over the phone. Physicians are encouraged to adopt the same principles during the physician-physician hand-off. (See online MAGNET, May 2006).
2. The medication safety goal has a new requirement calling for labeling all medications, solutions, and containers in the perioperative setting, both on and off the sterile field. The requirement mandates labels for all procedural settings.
3. Medication reconciliation: All of the patient's medications, including over-the-counter drugs, herbal remedies and aspirin should be recorded and updated throughout the patient's stay at the hospital. Physicians should work to ensure that the medication reconciliation process results in accurate, up-to-date information for patients in **both** the hospital and office settings.
4. Hospitals are no longer required to select three additional prohibited abbreviations to add to the JCAHO's mandatory prohibited abbreviations list. Physicians are encouraged to follow guidelines concerning the use of abbreviations in their own practices. (See the latest issue of MAG Mutual's *Healthcare Risk Manager*.)

(Continued on page 2)

Recent GA Court of Appeals Rulings

In July, the Georgia Court of Appeals ruled on three cases dealing with the 2005 Tort Reform package.

In Cotten v. Phillips, the court held that O.C.G.A. §24-9-67.1, which sets forth expert standards in professional malpractice actions, does not require an expert to be of the same "school" of medicine as the defendant physician. The plaintiff alleged that the defendant physician, an orthopedic surgeon, was negligent in failing to address potential vascular issues when he performed surgery on the plaintiff's knee. The defendant moved to exclude the plaintiff's expert, a vascular surgeon, arguing that the expert was not qualified to give an opinion as to the conduct of an orthopedic surgeon.

The court found that the vascular surgeon qualified as an expert since the allegations were not that the defendant performed the orthopedic surgery negligently, but that he failed to notice potential vascular issues which allegedly resulted in the plaintiff's injuries.

In the cases of Northlake Medical Center, LLC v. Queen and Allen v. Wright, the court ruled that O.C.G.A. §9-11-9.2, which requires plaintiffs to provide a medical record release when filing a medical malpractice action, is preempted by HIPAA. In both cases the plaintiffs provided releases that did not satisfy the requirements of O.C.G.A. §9-11-9.2. The court found that the O.C.G.A. §9-11-9.2 authorization was contrary to HIPAA and consequently preempted by HIPAA. ●

A.M. Best Recently Reaffirmed MAG Mutual Insurance Company's A- (Excellent) Rating

The rating report from the A.M. Best Company represents an independent opinion from the leading provider of insurer ratings and depicts the company's financial strength and ability to meet its obligations to policyholders. ●



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The 412(i) Qualified Defined Benefit Plan Can Save You More Now...For Later

Recent changes in qualified retirement plan legislation have made the 412(i) plan a popular and powerful tax and retirement planning tool. Because of these changes, a 412(i) plan may now be funded with enough assets to provide an annual retirement benefit of up to \$175,000.*

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- Contributions are tax deductible
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Representatives of MAG Mutual Financial Service, Inc. can help determine if a 412(i) plan is right for you. Call the MAG Mutual Financial Service Center at **1-800-316-0143**.

*Based on 2006 limitation on annual benefits under a defined benefit plan. Insurance, annuities or securities not provided through either MAG Mutual Insurance Company or MAG Mutual Financial Services, Inc. Insurance and annuities issued and underwritten by licensed nationally insurers.

Mark Your Calendar!

MAG Mutual and local defense attorneys speak out on...
Beating the Medical Malpractice Odds

Columbus – October 24

Speaker: Robert (Cal) Martin, JD

Register online at www.magmutual.com/seminars.

(What's New in Patient Safety for 2006?, Continued from page 1)

5. Hospital's must implement a patient falls program and evaluate that program's effectiveness.
6. The goal prohibiting concentrated electrolytes from patient care units has been retired and now exists as a JCAHO standard.
7. The goal concerning patient-controlled analgesia has been retired and now exists as a JCAHO standard.

In addition, JCAHO standards now require hospitals to address patient language and communication needs in the patient's record. Consider your own office policies and resources for managing patient language and communication needs. (See "Physician Obligation to Provide Interpreters," www.magmutual.com, Risk Management web page, for more information on this topic. ●

*MAG Mutual does not presume to establish any standard of care or establish rules for the practice of medicine. The particular patient-care strategies or range of patient-care strategies mentioned in this article should be tempered by the physician's judgement.

Group Purchasing Program Saves Practices More Than \$1 Million

Did you know you can buy medical practice supplies at discounted prices? **MAG Mutual policyholders in 90 practices across the region saved more than \$1 million just by buying their supplies through MAG Mutual and ILS National, LLC (ILS).** They're the same supplies they were previously using, but they're now enjoying a typical overall savings of 12-15 percent.

The group purchasing program offers competitive contract pricing on the following goods and services essential to your practice:

- Medical supplies
- Office supplies
- Laboratory supplies
- Pharmacy supplies
- Record storage
- Medical waste disposal
- Much, much more...

For a free, confidential, no-obligation analysis of your current purchases and comparison with ILS pricing, call 1-888-249-7880, toll-free, for your MAG Mutual/ILS program representative. ●



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Every insurance company claims to understand the needs of its policyholders. But MAG Mutual goes far beyond a casual understanding—we truly know the men and women who practice medicine; what, where and how they do it.



This month's featured Board member is Dr. Andrew Oliver, a Charlotte, North Carolina obstetrician who joined the Board of MAG Mutual Insurance Company in 2004. Dr. Oliver knows well the liability risks that come with his specialty. OB/GYNs have an average of 2.6 claims filed against them over the course of their career according to the American College of Obstetricians and Gynecologists (ACOG).

So in his role as a MAG Mutual Board member, he spreads the gospel of risk management to fellow practitioners. "I have to admit, before I was associated with MAG Mutual, I wasn't completely convinced that an insurance company's risk management efforts could help," Dr. Oliver says. "But then I realized MAG Mutual's Risk Management consultants are clinically-oriented. They are our allies, supporting us with practical strategies designed to help us avoid pitfalls. They do whatever they can, whenever they can, to help us avoid poor outcomes, whether it's tracking test results, dealing with problem patients, planning for obstetrical emergencies, or developing phone protocols."

"I appreciate MAG Mutual," Dr. Oliver says. "They're here for doctors through thick and thin."

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