

Big changes coming to South Carolina medical malpractice insurance

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The South Carolina General Assembly recently passed significant legislation affecting the South Carolina Joint Underwriting Association (“JUA”) and the South Carolina Patients’ Compensation Fund (“PCF”). Though the legislation focused on the JUA and PCF, it will impact the state’s medical malpractice liability (MPL) insurance industry as a whole.

The JUA and the PCF together have an estimated \$90M in accumulated deficits. Due to growing financial concerns, the South Carolina legislature passed, and the Governor signed, H.3760. The bill ushers in the following changes, effective January 1, 2020:

- The JUA and PCF will be combined into a new organization called the South Carolina Medical Malpractice Association (“Association”).
- All medical professional liability insurers in South Carolina (including the Association) will be equally assessed between 2% and 6% of net direct written premium each year to be applied toward reducing the Association’s accumulated deficit. The assessment will remain in place until as late as 2035.
- Beginning in 2021, the Association must charge an additional 1% premium surcharge per year for 10 years, resulting in a maximum 10% surcharge on top of the 2-6% assessment.
- Any future deficits of the Association that develop after July 1, 2019, must be funded exclusively by rate

increases on Association policyholders.

- The Association will transition over time to a market of last resort, insuring those physicians for whom standard insurance is not readily available.

Here are some of the expected outcomes from the legislation:

- The Association will be mandated to apply a surcharge over and above the MPL market assessment and above the Association's filed rates.
- Over time, the Association's policyholders will bear an increasing amount of the burden to pay off its accumulated deficit.
- The Association's policyholders will bear 100% of any deficits accumulated after July 1, 2019.
- As a market of last resort, the Association's rates will need to be higher than the standard market.
- The Association will only be able to write limits up to \$1M per claim/occurrence, unless granted special approval by the Association's Board and the Department of Insurance.

If you have any questions about how this legislation could impact you, contact MagMutual at 800-282-4882.

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