



"I'm sorry sir! Wednesdays are for Malpractice suits and insurance SALESMAN!"

Malpractice: Epidemic may hurt health care

By CHRISTINE WALDEN

Marcus Welby, no-fault insurance, "sue him" philosophies and lack of policing have entwined doctors, lawyers, insurance companies and consumers into a ball of string that may never be untangled.

No one is sure where the knot started, but many are afraid of where it might end.

The ball is malpractice insurance, who should pay what and why.

Though a majority of Michigan doctors are paying what insurance companies see as "reasonable" rates, a sprinkling in Class 5—high risk areas such as neurosurgery and anesthesiology — are paying between \$10,000 and \$25,000 a year for insurance.

That rate is determined by their class, which is in part determined by the number of suits filed against doctors in the class.

AND LATELY Class 5 doctors have been flogged with malpractice allegations.

According to several experts in the area of medicine, malpractice and insurance, the flogging comes from any number of areas.

Some cite the passage of no-fault auto insurance.

When no fault went into effect, injuries went from the car seat to the operating table and incisions rather than whiplash became the meat-and-potatoes for some attorneys.

So much so that according to one Detroit attorney, "Malpractice law suits have increased by 70 percent and that is almost directly proportionate to the decrease in automobile accident suits."

BUT THE bandwagon of get-rich-quick enthusiasts isn't the only factor.

Medicine has been accused of becoming depersonalized and doctors have perhaps too often been touted as miracle workers. Marcus Welby cures all. Real doctors can't and don't.

"A lot of things have been sold to people about the miracles of medicine," said Dr. Michael Curtin, whose \$25,000 insurance rates are forcing him to leave his position as acting chief of anesthesiology at Providence Hospital, Southfield.

"Now just an unsatisfactory result is a mistake, even if it was the best we could do."

UNFORTUNATELY, patients want more than the best, and wanting is not entirely their fault.

According to Howard Camden, chartered property and casualty underwriter and president of Advanced Underwriters Agency, "There is some soul searching to be done on the part of the medical profession. In my opinion, they are grossly in error in that they do not properly prepare the patient."

"The patient-doctor relationship has deteriorated; it's not the old family doctor anymore," he added.

The old family doctor would have sat down with his patient, told him the risks, where it would hurt and the possible negative results, Camden thinks.

Class 5 doctors, who are specialists, don't have that opportunity even if they had time. Their relationship with the patient is generally a one-time encounter. They come in to perform a special function and after surgery, patient and doctor part.

BUT THAT must change as one attorney put it, "people don't sue people they like."

If a patient sues and the case goes to court, another factor enhances the attractiveness of a patient's malpractice suit.

Sympathetic juries are returning good rewards.

Dr. Robert Pool, a Birmingham plastic surgeon currently facing increased insurance rates said: "Jury decisions now award patients judgments for cases where the physician may have had very little to do with the end result. But juries are made up of sympathetic people. They would like to do something for the patient and a financial reward is something they can do."

Even if the jury comes back with a no cause verdict, as they often do, the expense of defense is high.

"YOU CAN'T really say how much it costs with any particular case," said Wayne Backus of Medical Protective Company

which insures 65 percent of Michigan doctors. "As soon as the attorney is assigned to a case, expenses start to accumulate."

But with all the reasons there are still the realities. Doctors are going on the defense, conducting more tests to cover all areas.

That costs the patients money.

Some have stopped practicing their specialties for fear of suits.

That costs patients their health.

And others, like Dr. Curtin, are moving out of the metropolitan area.

BACKUS AND Dean Beardman of Shelby Mutual, which insures 25 percent of Michigan doctors, both say their rates are no where near the \$25,000 or even the \$10,000 mark for Class 5 doctors.

"The highest rate we charge for \$1 million worth of coverage is \$4,845," said Backus. "Many physicians pay less than \$600 for insurance. And the rates never go up for one individual; they go up for an entire class."

"And we don't cancel anyone. For whatever reasons there may be, we might not renew the policy, but we don't evoke the cancellation clause."

He added that 99.7 percent of their doctors are renewed.

At Shelby, the track record is similar, with rates slightly less, Boardman said.

HOWEVER, DOCTORS who find themselves with a policy also find a marketplace unfamiliar with malpractice insurance.

According to Charles McAlear of McAlear Associates which specializes in obtaining insurance for difficult cases, the rates charged by Shelby and Medical Protective are substantially less than those filed by the insurance bureau.

The insurance bureau establishes a rate based on what companies file as the rate necessary for profit. Shelby and Medical Protective are substantially less than the bureau rate.

"Because of the low rates they are the only people in the marketplace. Nobody else is

geared to write lower rates," said McAlear.

Backus said other companies don't want to write malpractice policies because it's not profitable to them.

"We simply have more expertise in this area."

What it all means is if a Class 5 doctor finds himself without insurance and can't get it from Medical Protective or Shelby, he has little choice but to turn to Lloyd's of London or some other source of insurance.

DR. POOL COMMENTED, "I am in the process of solidifying new insurance. The fees quoted were \$13,000 and \$15,000 a year, that was Lloyd's of London. Medical Protective and most other carriers state that they have never taken anyone on with an allegation against them."

Pool was cancelled by one company who "stated that they were withdrawing from medical coverage because of the skyrocketing expenses involved in litigation today. That was two years ago. Subsequent to that I discovered that I was cancelled primarily because I have an allegation against me, a suit I think is illegitimate, nevertheless it has been filed."

Pool and doctors in similar situations are worried about money. But they are also concerned about the effects of malpractice insurance on health care.

"We have a problem here in that the insurance is interfering with the delivery of health care in Oakland County. One day we will wind up with one of the hospitals in our area having no anesthesiologists simply because they take care of very bad problems in an attempt to save lives."

Currently the Physicians Crisis Committee, which formed about a month ago, is delving into the problem. They are focusing their efforts on investigation and change.

Hopefully, there will be answers, but they won't be soon and they won't be easy.