

M.D. NEWS

A BUSINESS AND LIFESTYLE MAGAZINE FOR PHYSICIANS

HAMPTON ROADS EDITION | MARCH/APRIL 2003

MALPRACTICE REFORM: A CHANGING LANDSCAPE

By: M. Todd Gerber

Most agree that reform is needed in the laws applying to the practice of medicine, but little consensus has been reached about what those reforms should be. Patients craving lowered health costs have contributed to economic pressures for the delivery of less expensive health services. Managed health care and business models now direct the course of medicine. Simultaneously, government and consumers insist on greater regulation and heightened scrutiny on matters such as granting of privileges, billing, referrals to related entities and patient privacy. Each of these is adding to the expense and complexity of the administration of medicine.

Beleagued physicians are justifiably crying for a halt to the rapidly rising costs of malpractice insurance. Meanwhile, the poor investment performance for medical malpractice insurance companies, coupled with increased litigation expenses and exorbitant jury verdicts, has generated an insatiable need for money to keep the carriers alive. Premiums go up or the insurance company leaves or dies. The siren call for medical malpractice reform beckons, but reform is elusive because the panacea of reform is splintered by divergent interests and opposing directions.

For more than a decade, Virginia has capped damage awards in medical malpractice cases. Such caps limit exposures. Professional liability premiums, computed by insurance actuaries, theoretically, therefore, reflect the overall limit placed, on Virginia awards.

However, the direction of change in Virginia counters the current national movement of legal-medical reform designed to benefit medical professionals. Specifically, the long existing cap applicable to medical malpractice cases in Virginia (set at \$1,000,000 for many years) has recently been amended to provide an annual upward adjustment. Va. Code Ann. 8.01-581.15. The present cap on medical malpractice awards is \$1,650,000, which will continue to increase until it reaches \$2,000,000 in 2008.