MEDICAL ASSURANCE COMPANY OF MISSISSIPPI

MONITOR

Message from the President

Robert M. Jones - President and Chief Executive Officer

A great deal has happened in the year since I became President and Chief Executive Officer of Medical Assurance Company of Mississippi. What has not changed is the fact that MACM continues to be the leading writer of medical professional liability insurance in Mississippi and is in great shape from every financial perspective.

We continue to see claims at a low frequency with a reduction in frivolous lawsuits. Our Defense Attorneys are mostly successful in defending those few claims that go to trial. We have been able to keep your premiums at reasonable levels, with the Board of Directors recently deciding that the base premium rate for 2016 will not increase but remain the same. All of this good news is the result of previous legislative Tort Reforms and the election of the current fair-minded Supreme Court.

Thanks to the generosity of MACM's physicians, your Mississippi Physicians PAC has a significant voice in the protection of Tort Reform and the benefits our insureds receive from it. During the past several months, we have had numerous one-on-one discussions with the political leaders of this state about issues that are important to MACM and its insured physicians. As an indication of MACM's relevance, we have been visited at MACM's office by the Governor and the Speaker of the House of Representatives. You should know, however, that we do not need to get comfortable with our success, as there are many who want to do away with Tort Reform and elect a plaintiff-minded Supreme Court.

As any of you who have worked with our fine staff knows, MACM is blessed to have an outstanding group of dedicated employees. At my request, the Board of Directors recognized the service and responsibility of these department heads by giving them promotions with these new titles:

Kevin R. Fuller
Vice President of Underwriting and Marketing

Maryann Wee, R.N., BSN
Vice President of Risk Management

Alan Jones
Chief Information Officer

The management at MACM realizes that the practice of medicine is changing; thus, we are striving to offer insurance products that meet your needs and to be a resource to you in this challenging environment.

During the past year, the Marketing Department has created a new marketing plan designed to retain current insureds

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Case Study:
COMPLICATION FROM INFLUENZA LEADS TO LAWSUIT AGAINST FAMILY MEDICINE PHYSICIAN

Gerry Ann Houston, MD - Medical Director

CASE

A 35-year-old female with a history of asthma was seen at an allergy clinic in late January with upper respiratory congestion, fever, nausea, and vomiting. Her flu test was positive, and she was started on Tamiflu.

Two days later she presented to a MACM insured family medicine physician. Her vomiting had continued; she was not keeping anything down; and she was worried that she was dehydrated. She also complained of left chest pain that was worse when taking a deep breath.

Respirations of 20 were noted with no other vital signs recorded. Physical exam by the physician documented the following: "afebrile; WD lady who does not appear to feel well; lungs do not reveal any gross wheezes; she has palpable tenderness in the left lower mid axillary area." And the impression was recorded as "1. Mild dehydration; 2. Influenza; 3. Gastroenteritis/nausea and vomiting due to Endal HD."

In the office she was given IV fluids, Toradol, and Phenergan. She was given prescriptions for Darvocet, Tessalon Perles, and Mucinex DM. An entry in the chart noted that she would be called and checked on the following day.

The following morning she developed hemoptysis and SOB and presented to the emergency room. On admission she was hypoxic (O2 sat 80 percent), neutropenic (WBC 300), and acidotic (pH 7.2). Chest x-ray showed bilateral nodular lung opacities with a small effusion on the left. Patient required intubation and mechanical ventilation and multiple antibiotics for her sepsis and pneumonia. She had a cardiopulmonary arrest, and after 50 minutes of resuscitative efforts, she remained in asystole. Autopsy identified the cause of death as sepsis as a result of hemorrhagic necrotizing pneumonia. Blood cultures later grew out Streptococcus pyogenes.

MACM Employees Participate in Service Work Day at the Mustard Seed

Instead of working at desks and computers on August 20, MACM employees spent the day volunteering at the Mustard Seed, a community for adults with developmental disabilities.

"We wanted to do a service project that would involve all MACM employees and give everyone the chance to participate at a level where they were comfortable," Rob Jones, President and Chief Executive Officer, said. "This won't be the last time that we do something like this!"

MACM employees spent the day painting fences, building needed supplies, sanding pottery, and interacting with the Seedsters that participate in the programs of the Mustard Seed.

The Mustard Seed seeks to meet the spiritual, physical, emotional, and intellectual needs of adults with developmental disabilities by providing a loving and protected Christian community with meaningful activities that allow the participants to fulfill the potential that God has created within them.

DISCUSSION

The patient's husband filed a claim against the family medicine physician alleging the standard of care was not met by failing to order a chest x-ray. If done, a chest x-ray would have shown the pneumonia; appropriate, timely antibiotics would have been initiated; and a wrongful death would have been prevented.

When the records were reviewed, there were some areas of concern.

The only vital sign documented was of an initial respiratory rate. No other vital signs were noted on admission to the clinic, and no vital signs were recorded while she was receiving IVFs or prior to her discharge. Were other vital signs done and not documented or just not done at all? Without documentation, there is no way to know. When it comes time months or years later to give a deposition, no one will remember. Defendant physicians are reminded over and over that if there is no documentation in the record, it didn't happen.

Patients and families may not remember things the same way. The patient's mother said the physician did not see or examine the patient. Nurses' depositions support the fact that our physician did see the patient, but there was no documentation in the record of the times that the physician was present with the patient. In a busy clinic, employees may not take time to do proper documentation. In this case, a nursing staff entry into the chart to note the time the physician entered the patient's exam room and then exited would have been beneficial.

The physician documented that one liter of IV fluid was given. There were no notes from nursing staff to document who started the IV, where it was placed, what type fluids were given, or how long the fluids lasted. While the IV fluids were infusing, did nursing staff come in to check on the patient? Did she have more nausea and vomiting; was she having any difficulty breathing; how was her chest pain? If the patient was not having any cough, SOB, chest pain, or other symptoms to indicate pneumonia, documentation of this in the record would have been beneficial to the defendant physician.

Why was a chest x-ray not ordered? Several local physicians were asked to give expert testimony but declined as each felt a chest x-ray should have been obtained in this lady with a history of fever, influenza, and pleuritic chest pain.

The case was settled without going to trial.

IF CONSIDERING HOSPITAL EMPLOYMENT, THE PIVOTAL QUESTION IS

WHAT & HOW MUCH ARE YOU WILLING TO GIVE UP?

Hospital Employment:
LOOK BEFORE YOU LEAP

Stephanie C. Edgar, JD - Legal Counsel

The conglomeration of declining reimbursement rates, onerous regulatory schemes, and steadily rising overhead continues to prompt many physicians to seek refuge in hospital employment. While hospital employment may well be a legitimate solution to the very real problems faced by private practitioners, before you leap, consider, with the assistance of your healthcare attorney, the following critical concerns.

CONTROL CONCEPTS:

Most concerns about hospital employment ultimately stem from this issue. We all know that, with rare exception, in order to get something, one must give something in return. The same is true here. In order to get the security of a hospital employment relationship, a physician must necessarily give up something in return.

If considering hospital employment, the pivotal question is what and how much are you willing to give up? Ceding control in this circumstance may run the gamut from how much vacation time you get to who has ultimate oversight of quality of care. Other "in-between" issues are flexibility of your employer, chain of command, competency level of staff, available equipment and resources, productivity expectations, non-competition clauses, and working hours.

Many of these concerns can and should be addressed pre-employment by contract; however, some may require a great deal of effort and may come about only as a result of open, honest dialogue between you and hospital administrators about goals and priorities and/or pre-employment investigation among your hospital-employed peers. Don't be afraid to ask the difficult questions of hospital administrators and don't hesitate to demand that the answers be in writing. Consult with colleagues that are employed by the hospital about how physicians are viewed by hospital administrators. Are employed doctors treated as valued and somewhat autonomous resources or as assembly line workers whose sole purpose is to produce, produce, and produce? Similarly, make inquiries of your hospital-employed peers about the hospital's culture. Does the hospital endorse its employed physicians in their quest to deliver high quality care or does the hospital's culture reflect a general feeling that its employed physicians work for the hospital and not the patient?

With your employment contract, an ounce of prevention is truly worth a pound of cure. This is true not only for the administrators with which you initially contract but in the event that the hospital administration subsequently changes, your concerns will be alleviated greatly if you take the time on the front

end to spell out solutions to these issues in your contract.

INSURANCE ISSUES:

The surge in hospital-employed physicians has drastically changed hospitals' risk profiles. Simply put, hospitals are now playing in the same sandbox that private practice physicians have been in for years, only with much more sand. It is no surprise, then, that determining how to treat the tail exposures of physician claims can and should be a crucial component of employment agreements. If considering hospital employment, ensure that all of the details of tail coverage are addressed on the front end, including identification of the party that pays for it, the cost of it, and whether there are conditions that may arise during the employment or as a result of termination of the employment which would operate to preclude the provision of it.

A closely related question is whether you have a choice about keeping MACM as your professional liability carrier. While hospitals may attempt to impose insurance requirements according to their preference, this is a point of negotiation with which your healthcare attorney can assist. In other words, don't assume that you must give up your MACM insurance if you become employed by a hospital.

SUIT SUPERVISION:

Hospital employment is not a panacea for litigation. You can be sued just as easily as a hospital employee as you can as a private practitioner. So, hammer out the details in your employment contract of how your legal defense will work. For example, if you get sued along with the hospital and/or other employed physicians, find out whether you have a choice about your attorney or whether you will be expected to use the same lawyer as your co-defendants. There could very well be a conflict of interest in this circumstance, which would prevent an attorney from providing you an effective defense because it would compromise the co-defendant's case. Also, inquire as to whether your consent is required to settle a lawsuit as is the case with MACM insureds.

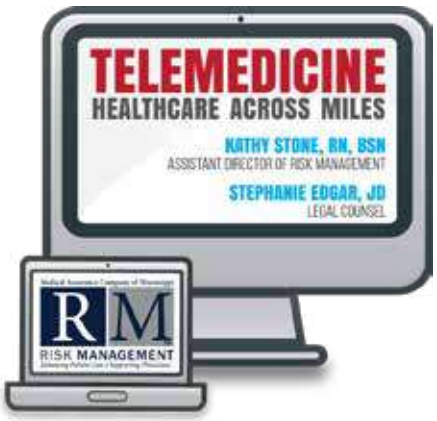
If the case is settled, will it be reported to the National Practitioner Data Bank? Remember that medical malpractice payments made solely for the benefit of a corporation, like a hospital, are not reportable, and in order for payments made on a practitioner's behalf to be reported, the practitioner must be named or otherwise described in the written demand for money **and** the settlement release or final adjudication. There are obvious incentives for your name and reputation to be protected in this circumstance, all of which can be spelled out in your employment contract and with the help of your attorney.

Finally, by statute in Mississippi, a hospital chart is the legal property of the hospital. Consider what level of cooperation you may need from the hospital on accessing these records in the event of litigation.

Change is hard. If you decide to leave private practice for hospital employment, do yourself a favor and hire a healthcare attorney to guide you through the process. Be selective about whom you retain to represent you. Attorneys, like doctors, come in all varieties. Don't assume that just because someone has a law degree that he is competent to guide you through this particular process. Retain a seasoned healthcare attorney to be your advocate. Also, don't assume that the hospital will look after your interests over its own. You likely wouldn't make this mistake in any other business venture, so don't make it with something as critical as your employment.

Of course, when you are speaking to a hospital about becoming employed, you can always **consult MACM**. Contact us so that we can help you think through the insurance issues.

FIRST MACM WEBINAR DECLARED A SUCCESS!



Through feedback and participation, the first MACM webinar – **Telemedicine: Healthcare Across the Miles** – has been declared a huge success. **Telemedicine: Healthcare Across the Miles** is now available to be viewed "on demand". If you are interested in access to the webinar, please email Yevgenia Wilkerson in the MACM Risk Management Department at yevgenia.wilkerson@macm.net and provide the following:

Name and Title, Clinic/Organization, & Email

Once we receive this information, we will email you a link, user name, and password to access the webinar.

IS YOUR CLINIC FULLY COVERED?

Through MACM Insurance Services, we can meet additional needs of our MACM clients by offering several business-oriented coverages:

- Employment Practices Liability
- Directors & Officers Liability
- Physician Regulatory Liability Insurance (Billing Errors & Ommissions)
- Worker's Compensation
- Physician Professional Liability
- Business Owners Policy (BOP)
- Cyber Liability Protection

From solo practitioners to integrated health systems, MACM Insurance Services has strategically positioned itself to help our clients manage risk. To get a quote or discuss any of these additional coverage options available to you, give us a call.

MACM Insurance Services Contact
Tammi Arrington (800) 325-4172
tammi.arrington@macm.net

macm INSURANCE SERVICES

President's Message
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and also seek out new physicians who are good risks. The Risk Management Department has spent countless hours working with our insured physicians and their clinic managers on topics such as electronic medical records, telemedicine, and prescribing, all the while conducting a very helpful seminar on obstetrical issues. The Underwriting Department continues to assist insureds with hands-on underwriting in order to be certain that you are properly insured in your practices. The IT Department helps all departments with the vast amount of data maintained by MACM, the launch of online renewals, and our new webinars. The Accounting Department watches and manages the Company's money as if it were their own. Of course, the Claims Department continues to provide excellent advice and comfort to those insureds who unfortunately face claims. In fact, every employee at MACM is a valued part of our team and is committed to helping our insureds.

We were fortunate to have hired Gerry Ann Houston, MD as Medical Director and Stephanie C. Edgar, JD as Legal Counsel during the past year. Because of their previous professional experiences, their advice and availability to the MACM staff and our insureds are invaluable.

During this time when things may seem unsettled in medicine, know that we "have your back" in terms of the risks that you may face in your practice. We will continue to watch for changes that may affect you so that we are proactive instead of reactive in dealing with them. We at MACM consider our jobs a privilege and we appreciate the opportunity to serve you.

Annual Review & Report:
MACM TRIALS 2014

Charles M. Dunn, III - Vice President of Claims and Chief Operating Officer

During the calendar year 2014, 30 MACM cases received trial settings. Following dismissals, continuances, etc., a total of five cases progressed through the trial process and were completed during 2014.

Defense Verdicts were rendered in three cases. Two trials resulted in Directed Verdicts in the favor of the Defendant physicians. There were no Plaintiff Verdicts.

TRIAL #1: NEONATOLOGY

Alleged Improper Performance of a Circumcision

This lawsuit alleged improper performance of a routine neonatal circumcision procedure. The complaint also alleged that redundant foreskin was present, along with a slight (10-15 degrees) penile torsion.

This lawsuit reached trial in the County Court of the subject venue, which is unusual as the vast majority of MACM medical liability litigation is filed in the Mississippi Circuit Court system. The County Court has a jurisdictional limitation of cases involving damages of $200,000 or less.

Following two days of trial, the presiding County Court Judge entered a Directed Verdict in favor of the Defendant physician, predicated upon the failure of the Plaintiff to present any credible evidence of a deviation from the applicable standard of care. No Notice of Appeal was filed.

TRIAL #2: EMERGENCY MEDICINE

Alleged Improper Treatment of Hyperglycemia and UTI

This lawsuit in a Mississippi Circuit Court venue against an Emergency Medicine physician alleged that the non-compliant diabetic Plaintiff did not receive appropriate treatment for hyperglycemia and a concomitant urinary tract infection. Three days later, the patient was discovered by Home Health personnel to have expired at home. No autopsy was conducted.

Following one week of trial, the jury returned a unanimous (12-0) Defense Verdict. No Notice of Appeal was filed.

TRIAL #3: GENERAL SURGERY

Alleged Improper Performance of Intestinal Resection for SBO

This lawsuit was filed in a Mississippi Circuit Court venue against a General Surgeon, alleging improper performance of an emergent surgical procedure to resolve a small bowel obstruction. The patient developed complications from the procedure due to multiple co-morbid conditions and eventually incurred $2.3 million in actual medical expenses prior to the demise of the patient several months later.

This lawsuit proceeded to trial in a Circuit Court venue. Following one week of trial, the jury returned a unanimous (12-0) Defense Verdict in favor of the Defendant General Surgeon. There was no appeal.

TRIAL #4: GENERAL SURGERY

Alleged Improper Performance of Laparoscopic Cholecystectomy with Delayed Hemorrhage/Death

This lawsuit was filed in a Mississippi Circuit Court venue against a General Surgeon, alleging improper performance of a laparoscopic cholecystectomy to relieve the acute symptoms of cholelithiasis and cholecystitis. The patient developed a delayed hemorrhage with a sudden demise.

This lawsuit proceeded to trial in a Circuit Court venue. Following one week of trial, the jury returned a Defense Verdict in favor of the Defendant General Surgeon by a jury vote of 10-2. There was no appeal.

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MPPAC

HAVE YOU CONTRIBUTED TO THE MISSISSIPPI PHYSICIANS PAC?

In October, every MACM insured will receive information about contributing to the Mississippi Physicians PAC – the political action committee funded by the insureds of MACM. Since 2007, MACM insureds have supported MPPAC by deferring a portion of their premium refund as a contribution. And, we want to make it easy again this year by using the anticipated premium refund as an option for you to contribute.

YOUR CHANCE IS COMING SOON!

WE NEED YOUR HELP TO CONTINUE THE GOVERNMENTAL AFFAIRS EFFORTS THAT ARE IMPORTANT TO THE SUCCESS OF MACM! BE LOOKING FOR MORE INFORMATION SOON.

WHY IS THIS IMPORTANT TO YOU?

1. MPPAC is recognized by statewide and legislative leaders and, through your contributions, we have the opportunity to effectively communicate how Tort Reform continues to benefit Mississippi physicians.
2. MPPAC is extremely active in supporting judicial candidates that we believe will fairly interpret the law and effectively manage trials.

IF YOU CANNOT CONTRIBUTE THROUGH YOUR PREMIUM REFUND, CONSIDER CONTRIBUTING ON YOUR OWN. INFORMATION TO DO SO WILL BE INCLUDED IN THIS YEAR'S PAC MAIL OUT IN OCTOBER.

If you choose not to participate with a contribution to the MPPAC, there will be no penalty or negative repercussions. Participation is strictly voluntary.

Contributions to the Mississippi Physicians Political Action Committee are not deductible for State or Federal income tax purposes.

It is Time for Fall, Football & Policy Renewals at MACM!

Just like football season, late August kicks off the official beginning of policy renewals for the MACM Underwriting Department. Each year, the Underwriting Staff renews over 3,000 policies for physicians and clinics. With this many policies, the more assistance and accurate information our insureds can provide through the online renewal process, the better for your coverage.

Following is a list of hints to help make your renewal process a little easier and avoid a yellow penalty flag by the MACM Underwriting Department.

IS THE INFORMATION CORRECT?

One advantage of our online process is the ability to quickly update and verify the accuracy of the pre-filled information on your renewal application. Double-check information that could possibly change during the past year, *e.g.* satellite clinics, procedures, email address, etc. If anything has changed, please update.

Home Address. Please verify your home mailing address, including zip code.

Additional Documentation. Provide any necessary supplemental documentation to satisfy a question that is asked. With the online renewal system, this documentation can be uploaded directly to the MACM Underwriting Department renewal files.

Business Entity Standing. Check the Secretary of State website (www.sos.ms.gov) and be sure your business entity, clinic or personal information is up-to-date and in good standing. If you have designated a professional consultant to renew your business license with the Secretary of State, please pass along this request.

Names of Ancillary Personnel. In order to accurately send Certificates of Insurance, we need to have accurate information regarding the names and positions of your mid-level extenders, such as nurse practitioners, physician assistants, and CRNAs. Add, delete, and edit any changes that have occurred this year and are not accurately reflected on the pre-filled application.

We believe that our improved online renewal system will serve you well. If you have any questions or require assistance, please give us a call.

Buckle your chinstrap – it's time for kickoff!

Underwriting Contact

Kevin R. Fuller - Vice President of Underwriting and Marketing
(800) 325-4172 | krfuller@macm.net

PRIOR ACTS NOW OFFERED WITHIN CERTAIN UNDERWRITING GUIDELINES.

In an effort to enhance its recruitment of new insureds and increase sales efforts, MACM is now offering prior acts to physicians interested in switching their coverage.

Prior acts is the term for an endorsement to a claims-made professional liability insurance policy that may be purchased from a new carrier when a physician changes carriers and had claims-made coverage with a previous carrier. This addition of prior acts to a policy provides coverage for **incidents** that occurred before the beginning of the new insurance relationship but for which no claim has been made. The purpose is for prospects to avoid the expense of tail coverage.

Physicians requesting prior acts coverage from MACM are subject to the following:

1. Applicant must be loss-free or have minimal claims experience.
2. All medical services prior to effective date and after retroactive date must have been rendered in Mississippi.
3. The specialties of obstetrics, neonatology, pediatrics and emergency medicine are not eligible for prior acts coverage.
4. A risk management survey may be required.
5. Appropriate step-factored rate will be charged.
6. A surcharge and/or probationary policy period may be applied at the Company's discretion.

When prior acts coverage is approved and issued to a new insured, the prior acts policy endorsement will state that coverage is not provided for any **claim or lawsuit** arising from a medical incident the named insured knew or should have known existed on or preceding the date the named insured became insured by MACM.

Please help the MACM Marketing Department by letting those physicians not insured by MACM know that this coverage is now offered.

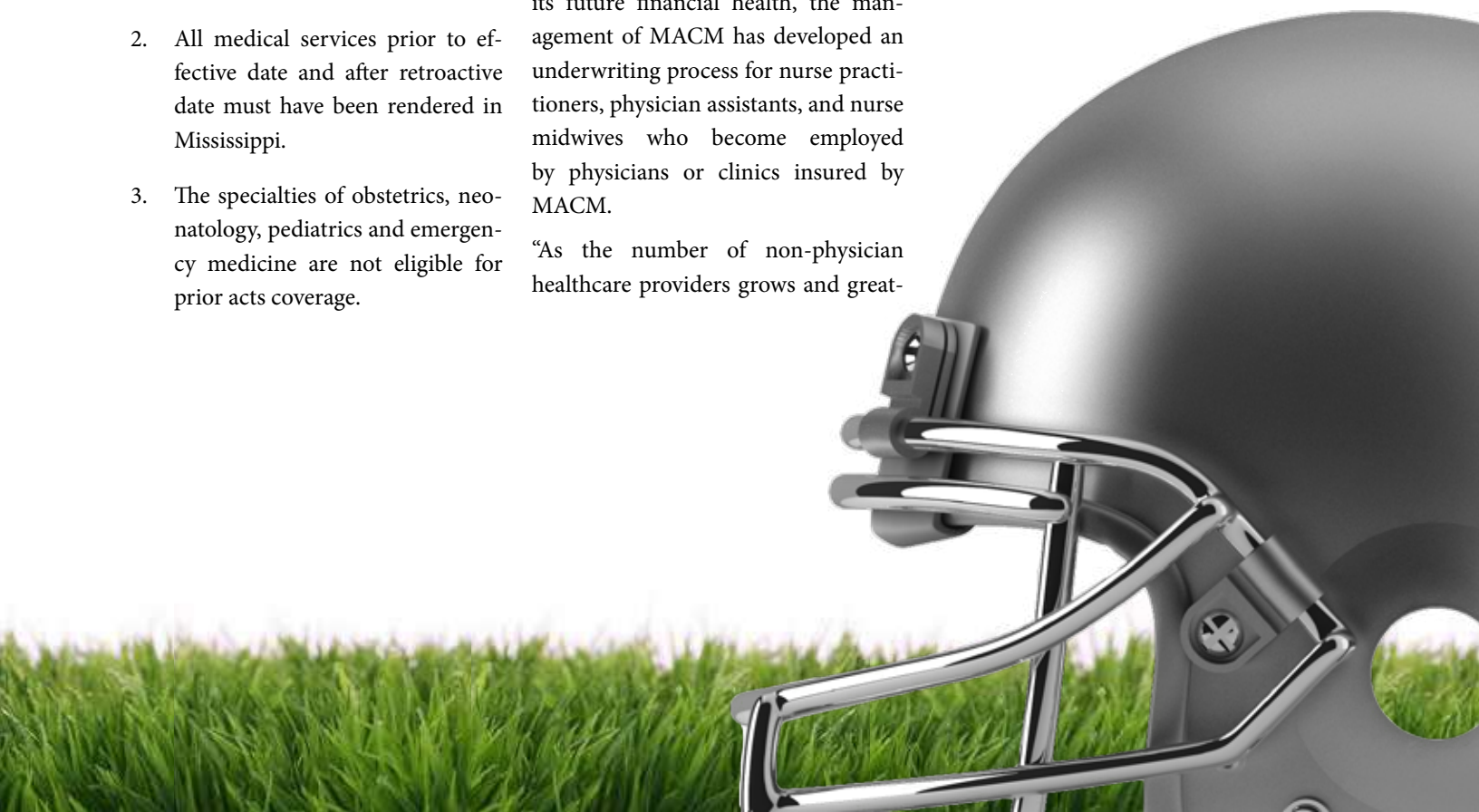
PHYSICIAN EXTENDERS NOW RECEIVE UNDERWITING PROCESS.

To better protect our members and its future financial health, the management of MACM has developed an underwriting process for nurse practitioners, physician assistants, and nurse midwives who become employed by physicians or clinics insured by MACM.

"As the number of non-physician healthcare providers grows and greater responsibility is placed on these providers, the prudent course in the changing face of medicine is to strengthen the eligibility standards for the initial coverage," Rob Jones, President and Chief Executive Officer, said.

An application, a claims history, an updated copy of the applicant's curriculum vitae (CV), and a copy of the applicant's license will now be necessary to consider coverage. Non-physician healthcare providers must be employed by a MACM-insured physician or clinic to be eligible. Providers already insured by MACM will be exempt from the process. With few exceptions, a decision regarding coverage should be determined by the Underwriting Department within three business days of receiving all of the required documents.

"While this may be a slight inconvenience in the short-term, this process will, in the long-term, add value to the protection and services that you have entrusted with us for so many years," Jones concluded.



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TRIAL #5: FAMILY MEDICINE

Alleged Delay in the Diagnosis of Colon Cancer

This lawsuit was filed in a Mississippi Circuit Court venue against a Family Medicine physician. The lawsuit alleged that the physician was negligent in failure to timely refer the patient to a Gastroenterologist for consideration of the performance of a diagnostic colonoscopy. The patient was eventually diagnosed with colon cancer.

This lawsuit reached trial in the Circuit Court of the venue. During the trial testimony, the Defendant physician confirmed that the patient repeatedly refused rectal examinations and refused the referral for the screening colonoscopy procedure. Unfortunately, these informed refusals were not clearly documented in the medical records. However, upon the cross examination of the Plaintiff's Medical Expert witness, there was no sworn testimony that the Defendant physician was negligent or breached the applicable standard of care.

Following two days of trial, the presiding Circuit Court Judge then entered a Directed Verdict in favor of the Defendant physician, predicated upon the failure of the Plaintiff to present any credible evidence of a deviation from the applicable standard of care. The Notice of Appeal was filed by the Plaintiff following the entry of the Judgment. This case is now pending on appeal to the Supreme Court of the State of Mississippi.

Welcome New Employees!

Since the beginning of 2015, five new employees have joined the MACM team.

Left to Right:
Stephanie C. Edgar, JD, Legal Counsel; Charity Huston, Administrative Assistant; Michelle Burns, RN, Risk Management Consultant; Leslea Lee, Underwriter; and Hunter Vaughn, Claims Representative.