

THE

MACM

# MONITOR

Winter 2017



## A MESSAGE FROM THE PRESIDENT & CHIEF EXECUTIVE OFFICER **LET ME TELL YOU A STORY**

By Robert M. Jones

We are often asked about the advantages of being insured by Medical Assurance Company of Mississippi. Let me tell you a story that illustrates the importance of being insured by a company whose sole focus is on physicians and the health-care providers associated with them.

The MACM Risk Management Committee is composed of MACM physicians and is tasked with reviewing medical issues that arise in physician practices. At times, the Committee is asked to determine if MACM should cover a new medical procedure, initiate risk management efforts to improve a physician's practice, or continue to provide insurance to a physician. It is not unusual for the Committee to meet with physicians struggling with health, chemical dependency, or medical practice issues.

At a recent Risk Management Committee meeting, a physician was asked to appear because he informed our Underwriting Department that he had been diagnosed with Parkinson's Disease. He was still doing invasive procedures, and we needed to be certain the disease had not progressed to the point that patients, and thus the physician, might be in danger. The physician explained that symptoms of his disease were under control, he was being followed closely by a neurologist, and he was aware of the risks.

After determining that it was acceptable to continue insuring the physician at this time, the Committee and MACM Staff went further. They offered advice concerning when and how the physician should inform patients about his disease, the need to insist that his family and fellow physicians tell him if he ignores problems as they arise, and the importance of honest self-awareness. Out of compassion, one Committee member gave the physician the contact information of another MACM physician who was boldly fighting Parkinson's Disease and suggested the physician call him.

I hope that when the physician left the meeting, he realized MACM is not simply an insurance company. It is an organization that protects and cares about physicians and their patients.

### **Other Reasons to Be Insured by MACM:**

This story is just one example of why it is better to be insured by a company like MACM rather than to be insured by a hospital or an out of state insurance company. However, there are other good reasons to be insured by MACM.

### **Physicians are involved at every level.**

The physicians on the MACM Board and committees actively practice in Mississippi. We have a Medical Director who is



HOUSTON'S HANDOFFS

## WHEN AN INCIDENT OCCURS, MAKE MACM YOUR FIRST CALL

By Gerry Ann Houston, MD, Medical Director

What do you as a physician do when you have a medical encounter that results in an unexpected outcome?

- Do nothing. This is to be expected when you are taking care of sick patients every day.
- Don't tell anyone and don't report it. Hope that nothing happens, and you don't get sued.
- Immediately call MACM's Claims Department and report the incident.

Many of us would pick (a) or (b), but the correct answer is always (c). It is our responsibility as physicians insured by MACM to report any "incident". The MACM Claims Department considers an incident as any medical encounter that results in an unexpected outcome or untoward event which you believe may possibly develop into a claim. It is impossible to list every incident that would necessitate a call to MACM, but these are a few examples:

- A complication or outcome that was not expected or anticipated
- An unexpected death
- An expression of dissatisfaction by the patient or family about the care that was given
- A notification of a patient's complaint or notification of an investigation by a licensing board
- A request for medical records by the patient, family, or an attorney

There are certainly other instances when events need to be reported. If there is ever a question about the need to report, a MACM Claims Representa-

tive is available to offer advice on the issue.

To report an incident, MACM has a specific report that needs to be filled out by the physician. Accompanying this should be a narrative written by the physician, not office or hospital staff, describing the event in detail. This should be done soon after the event while details are still remembered accurately. Our Claims Representative will then talk with the physician and obtain more information about the event. On some occasions, early intervention by the Claims Representative may prevent the incident from ever developing into a claim.

Once an incident is reported, all medical records should be placed in a safe place and not be altered in any way. All correspondence with MACM needs to be kept in a separate file and not in the patient's record. The incident should not be discussed with anyone other than the MACM Claims Rep.

The majority of incidents reported to MACM do not lead to claims or lawsuits, but there are some that will. The Claims Department should be notified of any of the following as they indicate the possibility of a suit developing:

- Receipt of a Notice of Claim letter
- Service of a Summons and Complaint
- Request for arbitration
- Request for a deposition or interview
- Demand for money or threat of legal action

But why should an incident that probably will never become a claim need to be reported? No one can ever predict which ones will become claims; even ones with no merit can be time consuming, stressful, and expensive. But once the incident is reported to MACM, coverage is locked in for any future claim that may arise from this incident. The assigned Claims Rep is available to discuss the claim, answer questions, make recommendations, and offer support during this often stressful time.

Medical professional liability insurance is not like home or auto insurance. Reporting an incident does not raise premium or lead to nonrenewal. And unless an incident becomes a claim and an indemnity is paid, there is no report to the National Practitioner Database. MACM's policy does require that an incident be reported. If it is not reported and a claim arises, the physician risks forfeiture of coverage.

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***The majority of incidents reported to MACM do not lead to claims or lawsuits...***

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You as a physician are charged with taking the very best care of patients, but sometimes unexpected results happen in spite of good care. MACM's experienced claims staff is here to help you when this occurs. Give them a call whenever that "incident" occurs and let them handle things while you continue to give good care to your patients.

# RISK MANAGEMENT UPDATE

## MACM Offers Course on the Mississippi PMP

How much do you know about the Mississippi Prescription Monitoring Program (PMP)? Are you aware of how often the PMP can help in your practice? MACM now has an option for you!

To help you navigate the PMP, MACM has an online program (available as of March 1) for our insureds and anyone else in their practice that may be interested. This program is presented by Dana Crenshaw, AHFI, CFS, Director of the Prescription Monitoring Program/Mississippi Board of Pharmacy, and Judy Cleveland, BSN, RN, Senior Risk Management Consultant at MACM.

Through this online course, you will learn the types of information accessible through the PMP, guidelines for best utilization of the PMP, and how to address some of the most prevalent risk management issues that often go hand in hand with prescribing controlled substances.

**This program awards 1.0 AMA PRA Category 1 Credit(s)<sup>TM</sup> which is applicable to the MSBML CME requirement for prescribing controlled substances.**

As a reminder, if you are a physician that holds a DEA number, you are required to be registered with the PMP through the Mississippi Board of Pharmacy. In addition to our physician insureds, this online presentation is available and applicable to other providers, such as your Nurse Practitioner.

To access this program, check the Risk Management section of the MACM website at [www.macm.net](http://www.macm.net) or contact Yevgenia Wilkerson at 1 (800) 325-4172 for further information.



## Out of State Companies Offering Bad Advice

It has come to our attention that an organization based in another state is offering practice management advice to medical clinics here in Mississippi. However, this organization appears to have experience only in dental practice management – a completely different situation. We urge our insureds to be very cautious in following advice from any entity or individual whose education and experience do not indicate expertise in the field they are addressing.

Furthermore, advice from out-of-state entities and individuals may not agree with Mississippi laws or the Mississippi Board of Medical Licensure's Rules and Regulations.

Please do not implement any changes based on this type of advice without verifying it yourself or by contacting the MACM Risk Management Department for information.

## Are you taking full advantage of **YOUR** Risk Management Department?

In 2016, the MACM Risk Management Staff continued to provide risk management assistance to physicians and their office staff throughout Mississippi. They performed consultations with our insureds in their clinics. They responded to emails and phone calls with advice, empathy, and suggestions. And, they offered educational programs – both locally and statewide. If you are not already working with the MACM Risk Management Department, consider making that a goal for this year.

## 2016 Risk Management Services

154 Office Visits and Onsite Consultations

1,492 people attended 54 educational programs or in-service training presentations

1,036 consultations by telephone and email



# OB/L&D EDUCATION EFFORT A SUCCESS:

## PLANS TO CONTINUE IN THE FUTURE

In 2013, the MACM Risk Management Department began an education program for insured obstetricians and the labor and delivery staff of the hospitals where they deliver. The purpose of this effort was to increase awareness of miscommunication between physicians and nurses that could result in a medical malpractice claim. Since that time, the frequency of obstetrical claims involving delivery has appeared to drop significantly. Between 2010 and 2013, the MACM Claims Department created 73 files, compared to 33 files between 2014 through the end of 2016.

“We want to congratulate and recognize the support and interest of our insured obstetricians and the labor and delivery nurses in Mississippi,” Maryann Wee, Vice President of Risk Management, said. “This program was a huge success because of their desire to constantly learn and their commitment to

improve the health of the mother and babies they care for.”

In the spring of 2013, eight obstetricians and one labor and delivery nurse met at the MACM offices to discuss ongoing concerns in obstetrical claims. This committee analyzed 10 years of medical malpractice cases involving deliveries and outcomes and, based on the results, suggested the education effort focus on the aspects of communication, for example, interpreting fetal monitoring strips. Throughout the meeting and review of data, this issue of accurate and timely communication quickly rose to the forefront as the primary matter to address.

Members of this committee made three recommendations to the MACM Board of Directors, including the following:

1. Provide written risk management materials educating MACM insured

obstetricians and the labor and delivery staff of the hospitals where they practice.

2. Offer the latest electronic fetal heart monitoring course to the labor and delivery staff of these hospitals at no charge.
3. Offer a live educational opportunity stressing improvement of communication between obstetricians and labor and delivery staff.

With a plan in place, the MACM Risk Management Department went to work.

Over the next several years, five data-driven publications were produced and distributed to insured obstetricians and labor and delivery nurses. These newsletters focused on risk management strategies to solve common concerns in delivering babies. Topics included improving communication, obstetrical emergencies, and data from the MACM claims files.

One unexpected addition to this program was requests from hospitals throughout Mississippi asking the members of the MACM Risk Management Department to come and speak to their nursing staff. Because of this education initiative, the MACM staff had the opportunity to educate nurses on risk management issues known to result in medical malpractice claims for the insured obstetricians.

“This was a great surprise,” Wee said. “The labor and delivery room staff readily invited us in to work with the nurses to educate them about med-mal claims our insured physicians face. It was very encouraging to see how open the nurses were to partnering with our insured physicians to improve the safety and quality of obstetrical care.”

In addition, MACM offered the GE Healthcare Electronic Fetal Heart Rate



Monitoring course to every labor and delivery room nurse that work beside MACM insured obstetricians, with 11 hospitals taking advantage of this opportunity. For the past several years, completion of this GE course has been a requirement of obstetricians to continue MACM coverage.

“It really made sense to offer this course to the labor and delivery nurses, especially since this was the course we required of our insured obstetricians,” Wee said. “With everyone taking the same course and speaking the same language, we hoped to enhance their communication.”

The GE Electronic Fetal Heart Rate Monitoring course was provided by MACM at no cost to 271 labor and delivery nurses.

The final part of this educational initiative took place on April 10, 2015. MACM provided a joint CME and CE education program for obstetricians and labor and delivery nursing staff. This one-day seminar – The Power of Teamwork for a Healthy Mother and Baby – featured national speakers on topics such as fetal monitoring strip interpretation, obstetrical clinical issues, and fostering a team approach. The audience of 127 included 30 obstetricians and 97 labor and delivery nurses representing 17 hospitals in Mississippi.

Because of the success of this program, the MACM Board of Directors has now approved phase two, which is the continuation of the educational initiative with our insured obstetricians, including production of risk management publications and the offer of an updated GE Electronic Fetal Heart Rate course to Labor and Delivery Room Nurses at no cost. One new aspect of this second phase is a grant given to the Mississippi Perinatal Quality Initiative in support of this committee’s continuing education work.

If you are an obstetrician interested in how the labor and delivery staff in the hospitals where you practice can participate in these efforts, please contact the MACM Risk Management Department at (601) 605-4882 or [rskmgt@macm.net](mailto:rskmgt@macm.net).



available to help resolve the concerns of insureds. No out of state physician tells our insureds what to do. There is no hospital administrator telling anyone at MACM how or who to insure.

#### **Our goal is to keep premiums low.**

MACM is owned by its member physicians; thus there is no pressure to maximize profits or return dividends to shareholders. Our only interests are keeping insurance affordable for Mississippi physicians, defending them when they are the subject of a lawsuit, and helping manage the risks associated with their practices.

#### **We must obtain your consent to settle.**

MACM physicians are involved in every aspect of a claim or lawsuit. According to your insurance policy, we cannot settle a claim without your permission. You are in control!

#### **You have an Equity Account.**

Since the creation of the Equity Account in 1991, there has only been one year that a contribution was not made to each insured’s account. While we cannot guarantee anything in the future, we anticipate that the Equity Accounts of our insureds will grow in the future and will be available upon death, disability, or retirement.

#### **We are physician advocates.**

Because of contributions from our insureds, the MACM PAC is the largest funded PAC in Mississippi. We communicate with the state’s Legislative and Executive leaders. We are keenly interested in protecting Tort Reform and maintaining a fair judicial system for physicians.

#### **We represent the interests of our insureds.**

MACM Staff regularly interact with organizations and agencies that affect physicians – Mississippi State Board of Medical Licensure, Mississippi Pharmacy Board, Mississippi Department of Health, and Mississippi Department of Insurance.

We monitor issues that affect physicians in their practices.

#### **More than Insurance!**

The MACM Staff is quite proud of the fact that we work for a company that does not simply sell insurance. MACM is much more. It is gratifying when we know we have helped a physician through a difficult personal situation, won a jury trial, or helped solve a problem in a physician’s practice.



# MILLENNIALS:

THE INS AND OUTS OF THE INTERNET GENERATION

By Stephanie C. Edgar, JD, Legal Counsel

*There's been a good bit of talk about millennials and how they are impacting the world. We thought it wise to take a closer look at who millennials are, why their presence matters, and what their influence means to the future of patient care and even medical malpractice trials. Full disclaimer: I missed being a member of this generation by a mere seven months.*





### Who Are They?

Millennials were born between 1980 and 2000. Ninety percent of millennials regularly use the internet. Seventy-five percent utilize some form of social networking, which is unsurprising given that one of the world's best known millennials is Facebook founder and CEO Mark Zuckerberg.

The key historical events largely responsible for shaping millennials' world views have been 9/11; the rise of the internet; school violence outbreaks; corporate scandals such as Enron; personal scandals such as those involving Martha Stewart and Lance Armstrong; and the financial crisis of 2008.

### How Do They Think?

Sociological experts have characterized millennials as collaborative, pragmatic, and fair. In general, millennials appear to have shorter attention spans

than other generations but place more value on corporate transparency as well as convenience. They have high expectations of any organized entity, such as government, and a majority are highly educated. In fact, millennials are on track to become the most educated generation in American history yet only about sixty-three percent are employed.

Stereotyping an entire generation is both futile and dangerous; however, some experts say millennials do place more of an emphasis on self than other generations. *Time* magazine published an article that went so far as to refer to millennials as narcissistic, lazy, and coddled, affectionately dubbing Generation Y as "the trophy generation", a nod to the fact that parents of Generation Y'ers sprung for trophies at the end of every sports season regardless of the team's record.

Continued on page 14



# CYBER LIABILITY:

## WHAT YOU DON'T KNOW CAN HURT YOU

By Kathy Stone, BSN, RN, Assistant Director of Risk Management

As busy physicians with countless demands on your time and intellect, you probably haven't given much thought to cyber vulnerabilities in your clinic. But, if you have, it may have caused a stress response as you began contemplating how to address this enormous and complex subject. How do you assess your vulnerabilities? How do you go about reducing them? Where can you turn for expertise in this area? What about education on the issue for both you and your staff?

We understand how unnerving this new risk can be to our insureds. Therefore, for the past several years, MACM has provided you with basic cyber liability coverage purchased from NAS Insurance Services (NAS).

With that coverage comes a host of benefits available on the NAS website. For instance, you can find information and even ready-to-use tools to assist you in assessing your cyber system and identifying vulnerabilities. NAS has also done the heavy lifting of developing policies and procedures related to cyber liability issues which are offered to insureds at no additional cost. Additionally, the NAS website offers short educational videos on a variety of cyber-related subjects. Forms such as a Vendor Agreement and a Personal Device User Agreement are available for your use. As if that is not enough, the coverage also includes HIPAA breaches (even if not related to cyber); and the website includes related sample policies and forms.

There really is too much content to discuss fully in this article. You need to see it for yourself by accessing the NAS website through the MACM website ([www.macm.net](http://www.macm.net)). Once there, log in to the Member Login section of the site using the email address on file at MACM and the password created when you first signed in.

We at MACM recognize that our physicians are dealing with significant changes on many fronts, and cyber liability is just one of them. We want to do whatever we can to support our insureds, and we believe this is an area which many of our physicians simply do not have the time to adequately address in their practices. And, frankly, it is easy to put this concern low on a priority list.

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*We at MACM recognize that our physicians are dealing with significant changes on many fronts, and cyber liability is just one of them.*

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Unfortunately, the threats to clinics, physicians, and patients is real and pervasive. MACM insureds reported several cyber security and HIPAA breaches in 2016. They ranged from minor lapses to complicated and costly breaches that significantly impacted our insureds' ability to care for their patients. These breaches resulted in countless hours of work to notify patients and deal with regulatory agencies and their requirements.

It is this claims history, as well as the rapidly developing risks of cyber breaches, that prompted us to plan a series of programs for our insureds and your clinic managers. These meetings will be held in cities across Mississippi. We plan to better inform you of the risks pertinent to your practice, give you some practical ideas on how to fortify your clinic from these attacks, and share, in more detail, the specific NAS cyber liability coverage you already have, as well as what they have to offer in support of our insureds.

Please consider attending or sending your clinic manager to one of these four programs. Because, what you don't know CAN hurt you.





## 2017 Cyber Liability Education and Update

Cyber attacks are a growing threat for medical practices and happen more often than you think. Who is doing this? How? Why? Even more important, how would a cyber attack affect you, your practice and, most of all, your patients?

A cyber attack could temporarily shut down your practice. It also opens you up to the risk of loss, misuse, or improper dissemination of information. Even a relatively small breach of records can mean thousands of dollars in notification costs as required by HIPAA, expenses related to the repair and upgrades of the breached systems, and recovery of data, not just on your EMR but potentially with your emails and texts.

Make plans now to attend one of MACM's 2017 educational opportunities in a city near you to learn more about your risk of a cyber attack and the cyber liability coverage that MACM provides to you through a partnership with NAS Insurance Service, LLC.

### You can learn and ask questions about the following:

- Specific coverages and the limits of liability for each; how to report a cyber attack to MACM; and the process after a cyber attack has occurred.
- General issues regarding your data, including the vulnerability of the use of laptops, tablets, Wi-Fi, smartphones, and third party vendors (such as off-site data storage and servers, cloud-based storage, and wireless network providers).
- Examples and cases in which healthcare entities were hacked, how these were handled, and the outcomes. We will look at some steps you can take to try and prevent being hacked and some proactive things you can do to be ready if it does happen.

## REGISTER NOW

All programs are free of charge.

Registration and lunch start at 11 A.M.

The educational program will be from 11:30 A.M. - 1 P.M.

Submit **one form per person** and register each attendee separately. Copies are acceptable if you need additional forms. We encourage you to register online at [www.macm.net](http://www.macm.net)!

Name: \_\_\_\_\_

Designation / Title: \_\_\_\_\_ Suffix: \_\_\_\_\_

Email Address: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

Clinic Phone Number: \_\_\_\_\_

Clinic Name: \_\_\_\_\_

Clinic Address 1: \_\_\_\_\_

Clinic Address 2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervising  
Physician Name: \_\_\_\_\_

Physician Specialty: \_\_\_\_\_

**Please check the box to indicate which program you would like to attend.**

**03/29/17 - Oxford** - Oxford Conference Center

**04/06/17 - Biloxi** - The White House Hotel

**04/27/17 - Hattiesburg** - Lake Terrace Convention Center

**05/04/17 - Jackson** - Mississippi Agriculture and Forestry Museum- *Ethnic Heritage Center*

**Would you like to sign up for a one-on-one meeting with a Risk Management Consultant?**

Yes

No

*If yes, we will call to schedule a time. These 10-minute consultations (scheduled before and after the program) will be for Risk Management questions only. Policy coverage will not be discussed.*



# WHAT LIMITS SHOULD I CARRY?

By Kevin R. Fuller, Vice President of Underwriting and Marketing

We are frequently asked, “What limits should I carry?” Unfortunately, such a question does not generate an easy answer, and in fact, often creates even more questions. However, former President and CEO Mike Houpt and Chief Operating Officer and Vice President of Claims Chuck Dunn, over the years, developed the following standard response: “Carry the limits that you can reasonably afford.”

While the passage of tort reform has led to many wonderful benefits, there are still cases with difficult facts filed in tough venues in the State of Mississippi. This article will identify several misconceptions about tort reform and potential legal liability; examine factors that have the potential to increase a liability award, irrespective of the cap on noneconomic damages; and explain certain aspects of your MACM policy.

One of the myths that surrounds this subject is that the higher the limits one carries, the larger the bullseye is on one’s back. Carrying this line of thought to its logical conclusion, a doctor that has no coverage will never be sued. This is not the case. In reality, plaintiffs and their lawyers do not know what limits you carry until you are sued and discovery commences. So, to argue that one physician may be targeted simply because he or she carries a higher limit is just not accurate.

Another misconception is the belief that the \$500,000 cap on noneconomic damages is a hard cap applicable to the entire case as opposed to just one element of damages. This leads some to believe that their limits should therefore be lower because the exposure for each case will be limited to a maximum of \$500,000. This line of thought, unfortunately, does not reflect reality.

First, the cap is limited solely to one area of damages: noneconomic damages. Those are defined as “subjective, nonpecuniary damages arising from death, pain, suffering, inconvenience, mental anguish, worry, emotional distress, loss of society and companionship, loss of consortium, bystander injury, physical impairment, disfigurement, injury to reputation, humiliation, embarrassment, and loss of the enjoyment of life.” So, noneconomic damages are those damages for which it’s typically very difficult to assign a dollar figure.

Further, even though the cap has been a huge asset in many cases, we continue to see cases where the cap has a limited effect. Conventional wisdom suggests that the likelihood of a multimillion-dollar award would involve a neurologically impaired infant during delivery. These cases have certainly played out accordingly in every state in the country, which is why obstetrics has been the loss leader for most medical liability carriers for years. The truth is, however, every specialty contains risk, and, if the stars are properly aligned, the damages can be significant no matter the specialty. The following represent some of the factors that can significantly drive up a damages award.

Lost wages and loss of wage-earning capacity may seem synonymous but in reality, lost wages are retrospective while loss of wage-earning capacity is prospective. In other words, loss of wage-earning capacity are those wages that an injured plaintiff might have been capable of earning had the injury not occurred. Both are economic damages, and are therefore, not limited by the cap. For those cases in which a previously high wage earner becomes disabled, these damages can be significant. Likewise, for a plaintiff significantly injured who had the probability of one day earning a high wage, the damages can be high.

Medical expenses are typically a large component of any economic damages award. It’s no secret that the cost of healthcare keeps rising. Add to that the fact that medical bills are usually exorbitant when initially billed but are negotiated down by the payer, and no one is ever obligated to pay the difference. However, if a case is filed and ultimately tried, the only amount that is admissible at trial, and hence, the only amount that the jury is ever told about is the billed amount of

medical expenses. So, for example, if the medical expenses billed are \$1,000,000 but insurance has only paid \$40,000, the plaintiff is nevertheless entitled to put into evidence the full \$1,000,000 amount. Further, the jury usually awards the full \$1,000,000 amount.

Similarly, future medical expenses are usually addressed in complex life care plans, which many times, are entirely speculative at best. As is the case with past medical expenses, plaintiffs are entitled to recover the “sticker price” for these damages instead of the amounts that would actually be paid for such future medical services.

One creative way that plaintiff’s lawyers have devised to evade the cap is through the use of exorbitant economic plans. These plans take items of damage which are traditionally thought of as noneconomic in nature and cloak them with the veil of economic damages.

For example, one category of noneconomic damages is loss of society and companionship. In addition to compensating the plaintiff for the emotional loss sustained, this would seem to also encompass all things which a deceased or injured person previously provided to the household. However, it is typical to see economic plans which delineate a separate area of economic damages called “loss of household services”. Within this category, it is common to see amounts assigned to replace the cost of cooking and cleaning which the injured person previously provided. That, in and of itself, is not terribly unusual. But, what is mindboggling are the amounts actually assigned for these services.

For example, let’s assume that Susie Jones dies. Her family all testify that she daily cooked common, simple meals such as casseroles. Yet, when the economist completes his plan, it is not uncommon to see amounts allocated to the cost of replacing Susie’s cooking that would seem to be high enough to commission a personal sous-chef to prepare foie gras on a nightly basis.

Other factors which may tend to impact a trial’s outcome and more specifically, a damage award,

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*Carry the limits that you can reasonably afford*

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are venue and trial judge. While tort reform has certainly made the legal system in Mississippi more palatable, there is no denying that there are still bad venues in Mississippi. Similarly, there could be trial judges in Mississippi that are plaintiff-friendly and that will make rulings in favor of a plaintiff even when the evidence and the law point to the opposite result. Many times relief can be had at the appellate level; however, this is not always the case, and the appellate process is expensive. A trial judge is typically given wide discretion by Mississippi's appellate courts, and jury verdicts are often difficult to overturn.

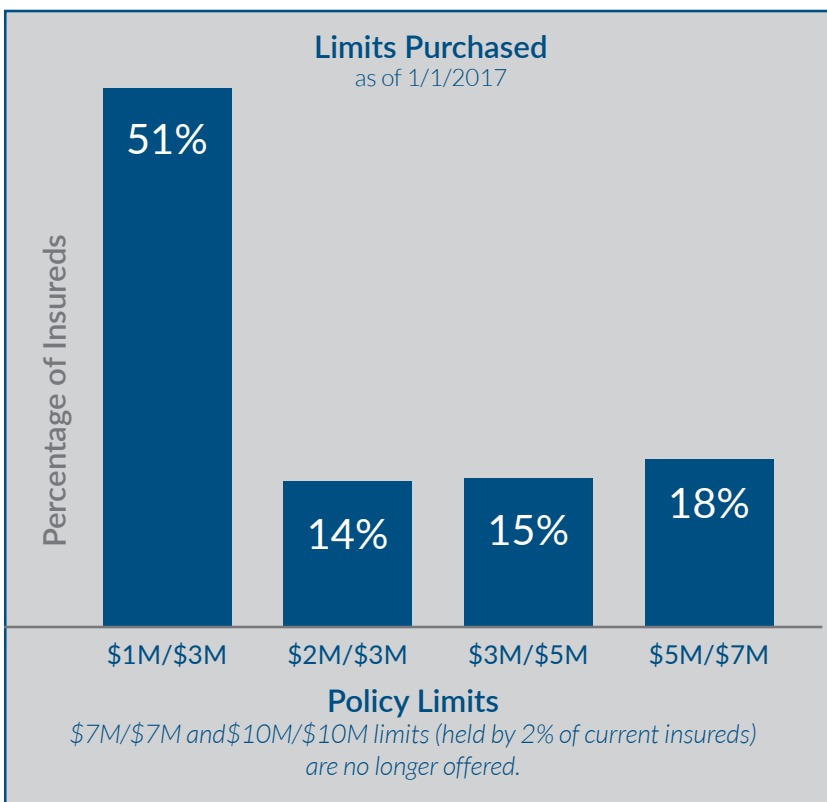
All of these factors have the ability to increase a damages award and get one closer to or exceeding the applicable policy limits. In the event that an insured is presented with an excess verdict situation, a judgment which exceeds his or her policy limits, the result is that the insured's personal assets may very well be on the line. This includes, but is not limited to, real property as well as personal property, including wages. Surprisingly, asset seizure is a relatively straightforward process under Mississippi law. The judgment simply has to be enrolled on the judgment roll in whatever county the insured property can be found, and the property can then be seized in an effort to satisfy the judgment.

If all of these factors ultimately convince you to increase your MACM policy limits, understand that your MACM liability limits do not erode as a result of attorney's fees and costs. For many carriers who write policies in Mississippi, the defense costs are considered part of the limit, or inside the limit. For those carriers, if \$300,000 is spent on your legal team and expert witnesses, only \$700,000 would be available for indemnity purposes on a policy with a \$1,000,000 per claim limit. Since defense costs are somewhat unpredictable and can escalate depending on appeals, the number of experts necessary, coverage issues and more, MACM continues to believe that those expenses are simply part of doing business. To properly protect you, we feel those costs should be paid separately from your per claim limit.

So, the question remains, "What limits should I carry?" Many hospitals require physicians on staff to carry a minimum of \$1,000,000 per claim/\$3,000,000 annual aggregate (\$1M/3M). Some health insurers require physicians who are "in-network" to carry a minimum of \$1M/3M as well. When we see rates being compared to rates in other states, the limit commonly used is \$1M/3M because it is prevalent in other states. However, in reviewing the limits purchased by MACM members, roughly half carry \$1M/3M with the remainder carrying higher limits.

Of course, increasing your individual limits of liability increases the cost. The question is, "how much?" Regardless of specialty, the premium increase from a \$1M/3M limit to a \$2M/3M limit (doubling your per claim limit) is 16 percent. Obviously, this increase is easier to manage for lower risk, non-surgical specialties. Higher limit options are also available; one can obtain those rates with a call to the Underwriting Department.

We encourage you to review periodically the limits of liability that you carry. Are you comfortable with those limits? Have you considered the ramifications of an excess verdict? Do you practice in a venue in which it may be difficult to obtain a fair trial? Consider all of the issues and questions and decide for yourself. And, take Mr. Houpt's and Mr. Dunn's advice, "purchase the limits that you can reasonably afford."



CELEBRATING

# 40

YEARS

1976 - 2016

Providing professional liability  
insurance to Mississippi  
physicians

**macm**<sup>®</sup> | Medical Assurance Company  
of Mississippi

**New look. Same commitment you have come to expect.  
Thanking Mississippi physicians for four decades of support.**

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601.605.4882  
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### Why Should We Care?

From U.S. Census Data, the Pew Research Center estimates that there are 75.4 million millennials in the United States. By comparison, there are 74.9 million baby boomers—once thought to be the largest generation. Millennials' ranks have surpassed those of the baby boomers primarily because of immigration.

Millennials are prolific, and their very presence impacts everything in what has become a consumer-driven society. In fact, MACM currently insures 204 physicians that meet the definition of “millennial”.

Healthcare is, likewise, not immune. For example, look at the rapid rise of both telemedicine and retail medicine, concepts borne in large part out of a drive for more convenience. For that matter, look at the newest payment models, most of which have at least a nexus to patient satisfaction.

### How Do We Relate?

There's no denying that millennials are changing the way we do business, whether this is because millennials are part of our work force, part of our client base, or both. The way we've always done it won't necessarily work anymore. For example, rather than long, drawn-out explanations, millennials favor short, to-the-point sound bites. Keep in mind that for this generation the preferred methods of communication are 140-character tweets and Snapchat messages that disappear in 10 seconds. Similarly, for a generation that is so dependent upon technology, it would be extremely unwise to attempt to relate without utilizing some technological medium. Issues of evidentiary reliability need to be explained to millennials more than to perhaps any other generation. Bear in mind that the go-to source for most of their knowledge is the internet. Consequently, many probably won't appreciate being told that the internet isn't always reliable.

Also, millennials tend to have a “Google” mentality. In other words, some believe that every problem is as simple as asking Google. This can create issues when dealing with how to, for example, present evidence of a large, complex EMR in a medical malpractice trial. Millennials may be less

forgiving and more likely to think that if something is charted in an EMR, no matter if it was charted by a different practitioner two-years prior in a record that's 50,000 pages long, that the doctor should know about it. This causes obvious concerns when trying to devise the best strategy for presenting evidence in a medical malpractice case where things aren't always so clear.

One encouraging bit of news about millennials from jury consultants is that while many of the personality traits attributable to millennials seem to be indicative of those that might be plaintiff-friendly, in reality, personal responsibility is a strong, common theme among millennials. In other words, millennials may be even more likely than other generations to question why a plaintiff would blindly follow the advice of a physician without getting a second opinion.

Without a doubt, practicing both the art and science of medicine with an instant gratification generation will have challenges. However, as millennials take over the workforce, they gain something that any industry values most: spending power. By 2020, millennials are expected to spend \$1.4 trillion each year. With this much influence, millennials' view could very well disrupt how medicine is practiced and how policymakers make laws that govern its delivery.

One of the ways MACM has attempted to respond to millennials' growing influence is to create the Young Physicians Advisory Council (YPAC), a committee of physicians comprised almost exclusively of millennials. This group meets twice per year, and while we use these sessions to educate the YPAC about MACM, the primary goal is to determine from these members what young physicians want and how MACM can help them in their practices.



# MARYANN WEE FINISHES OUT HER CAREER



After 236,376 miles of driving on Mississippi roads for MACM, she is headed home.

In mid-April, MACM Vice President of Risk Management Maryann Wee, BSN, RN, will pack her office, say final farewells, and head north to begin a life of retirement in her home state of Pennsylvania.

“I am looking forward to some time to relax and take stock of where I am,” she said. Her plans include a lot of travel, volunteer work, and returning to her farm girl roots.

For 28 years, Maryann has represented MACM Risk Management to physicians and clinic staff throughout Mississippi and been the one insureds called when they needed advice or just someone to listen.

“Physicians and the staff working with them are simply amazing,” she said. “It is difficult to work in a medical clinic and navigate the burdens of healthcare every day. Yet, over and over again, I work with physicians and clinic staff who are resilient and only interested in providing the best care for the patient. That was always so rewarding.”

With over 1160 clinic visits and 627 risk management presentations during her years at MACM, Maryann has spent a lot of her time working with MACM insureds to keep their patients safe, help clinics run smoother, and prevent litigation. As a result of those visits, phone calls, and emails, she counts as one of her greatest accomplishments the friend-

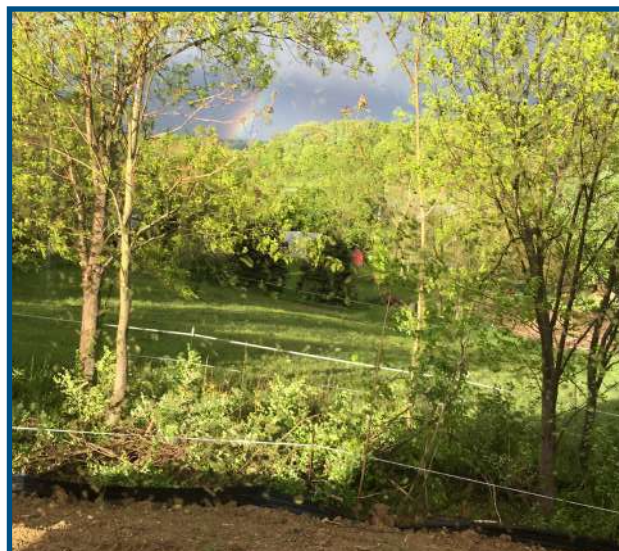
ships made along the way and hopes that she has somehow made a difference.

“At MACM, we interact with so many people in healthcare – both in Mississippi and across the nation. And, it has been a pleasure to work with the dedicated professionals at MACM who have made a difference and go above and beyond to help our insureds,” she said. “MACM is more than just an insurance company worried about the bottom line. MACM is a company with a heart that really cares about physicians and their clinic staff. It will be hard to leave, but I am excited about the next chapter in my life.”

Along with her husband, Abel Wee, MD, Maryann plans to enjoy this next phase. Her first morning of retirement will begin with a nice cup of coffee while sitting outside on her sun porch and gazing at the hills of Pennsylvania. And, as she is finishing off that first cup, she’ll be thinking about the future and remembering the good friends she has made over the years in Mississippi.



Maryann and Abel Wee, MD



The view from Maryann's home in Pennsylvania



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## Thanks to the MACM Defense Counsel for Making MACM Look Good Outside the Courtroom!

Another reason for the continued success of MACM is the outstanding Defense Counsel available to our insureds. In addition to the trial preparation and work they regularly do, we ask them every so often to help with marketing and educational efforts to medical students and residents.

Special thanks to **Tim Sensing** and **Mildred Morris**, with Watkins & Eager (left to right in the photo), and **Trey Smith**, with Page, Kruger, & Holland (back in the photo,) for presenting a medical malpractice “mock trial” to the medical students at UMMC on February 16. This presentation was part of the “Professionals in Medicine” class led by David R. Norris, Jr., MD, Associate Professor in the Department of Family Medicine (far right in photo).

Special thanks also to **Whit Johnson** and **Senica Tubwell**, with Currie, Johnson, & Myers, for speaking to the Mississippi Rural Physician Scholars on February 7. Their presentation highlighted the importance of understanding contract negotiations before committing to future career opportunities.

And, finally, special thanks to **John Banahan**, with Bryan, Nelson, Schroeder, Castigliola, & Banahan, for speaking on behalf of MACM to the medical students at the Winter Meeting of the Mississippi Osteopathic Medical Association.

