

**New York State
Insurance
Department**



NEWS RELEASE

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ISSUED: JULY 2, 2007

FOR IMMEDIATE RELEASE

RATE INCREASE STAVES OFF LOOMING INSURANCE INDUSTRY CRISIS AS NEW TASK FORCE CONFRONTS MEDICAL MALPRACTICE REFORM

After years of artificially low rate increases, State Insurance Superintendent Eric R. Dinallo today announced that the Insurance Department is approving a 14 percent increase to medical malpractice insurance rates. While lower than what insurance companies had requested, this increase is necessary to avoid further financial deterioration of the companies and perhaps an irreversible crisis in an already severely distressed market.

The rate increase comes after years of setting rates below what was needed, the State's appropriation of \$691 million of insurance reserve funds, which could have served to enhance insurer solvency and temper rate spikes, and the prior failure to successfully address the underlying causes of high medical malpractice costs.

On the same day as the rate increase, Governor Eliot Spitzer charged Superintendent Dinallo with heading a new task force to confront the fundamental drivers of high medical malpractice costs. The task force, which will report back to the Governor by the end of the year, will include New York State Commissioner of Health Richard F. Daines, M.D., and a broad range of representatives from physician and hospital associations, the insurance industry, consumer groups, health plans, trial lawyers and the Legislature.

Without this rate approval paired with a new, comprehensive effort to address the underlying causes of high insurance costs, the medical malpractice insurance industry will continue to deteriorate into crisis – a spiraling effect that could drive insurance companies out of business and fail to attract new ones into the marketplace, forcing doctors out of New York and decreasing access to health care for all New Yorkers.

“After years of failing to confront the fundamental problems that have led to this current environment, we have inherited the worst of both worlds – physicians who cannot afford to practice medicine, and insurers whose financial condition is rapidly eroding. The cause is high medical liability costs, and this administration is going to address it,” said Dinallo. “I understand many health professionals already feel rates are too high, which is why we are asking these and other stakeholders to join us in developing a lasting, practical solution. But the fact remains, this rate increase is less than what carriers sought and is

what our experts believe is necessary to stave off an industry-wide crisis unless the underlying problem of high medical malpractice costs is addressed.”

As a physician and former CEO of a major New York hospital, Commissioner Daines agreed with Dinallo’s assessment: “I am concerned that the increasing cost of medical liability insurance will drive some physicians out of the field and will discourage young people from entering the medical profession in the first place,” said Dr. Daines. “Resolving this problem is necessary to ensure New Yorkers maintain access to a full range of health care services.”

The new task force will recommend short- and long-term reform options for addressing the causes of high medical liability costs. The group will consider all potential solutions to controlling medical malpractice costs, including risk management, legal reform and regulatory changes to foster a stable, competitive environment with financially sound companies – including new entrants into the marketplace – that offer competitive rates to New York’s health care providers.

In establishing the new task force, Governor Spitzer said, “Due to years of inaction, the medical malpractice insurance market has reached a crisis level. This administration will not turn a blind eye to this situation. We will tackle this problem head-on.”

The State Insurance Department is required by law to set medical malpractice insurance rates every year by July 1. However, for the last several years, the rates established by the State have not matched insurers’ projected losses – averaging one-third of the rate increases sought by insurers.

Medical Liability Mutual Insurance Company (MLMIC) is the largest carrier, with about 60% of the market. Physicians Reciprocal Insurers (PRI) is the second largest, with more than 20% of the market. In recent years, approved rate increases for these companies have been substantially less than those proposed by the carriers and are less than what experience has shown to be necessary:

Year	NYSID Approved	MLMIC Proposed	PRI Proposed
2002-03	0.0%	8.0%	2.0%
2003-04	8.5%	19.4%	18.5%
2004-05	7.0%	22.2%	25.7%
2005-06	7.0%	30.0%	26.7%
2006-07	9.0%	26.8%	20.8%
2007-08	14.0%	16.6%	30.6%

As a result of artificially low rates, combined with the failure to effectuate needed reforms to address the root causes of high medical liability costs, insurance companies now face the real prospect of insolvency while physicians simultaneously face the reality of soaring insurance costs.

The problem has been further exacerbated over the past decade. Between 1992 and 1997, the State appropriated \$691 million from the reserves of the Medical Malpractice Insurance Association (MMIA) - established by the State as the insurer of last resort – to close gaps in the State’s operating budget. Had MMIA’s reserves been preserved and allowed to grow by collecting interest over the years instead of being so severely depleted, New York’s medical malpractice insurers would be in a much stronger financial position today, and the problem confronting New York would be far less serious. But by 2001, the State dissolved MMIA altogether, replacing it with the Medical Malpractice Insurance Plan (MMIP), an assigned risk plan in which all medical malpractice insurers participate. Unfortunately, MMIP has accumulated a deficit of approximately \$525 million as of March 31, 2007 – a sum that, by law, must be shouldered by the few companies selling malpractice insurance in the state, exerting further pressure on insurance rates.

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