

'Worst of Both Worlds' Hits Insurance

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Brain surgeons in Brooklyn will pay about \$267,000 a year in medical malpractice insurance, while obstetricians in Queens will owe \$180,490, and general surgeons in Manhattan will be charged \$123,120, after a sharp increase in medical malpractice insurance rates was announced yesterday.

In the first double-digit increase in at least five years, the New York State Insurance Department increased medical liability costs by 14%, the highest annual increase since 1993. Doctors warned that the increase in malpractice insurance costs amounts to a crisis that will be passed along to patients in the form of higher fees and to businesses in the form of higher health insurance premiums for their employees.

New York's medical malpractice premiums already are among the highest in the nation, and the latest increase may contribute to mounting political pressure to come up with a policy change to provide some relief. Politicians across the political spectrum, from President Bush to Senator Clinton, have said that some changes to the medical malpractice system are needed. Mr. Bush has cited physician shortages in some areas of the country, while Mrs. Clinton has said that malpractice costs are contributing to unsustainable increases in spending on health care.

The executive vice president of the Medical Society of the State of New York, Rick Abrams, said an "out of control" tort system is driving up costs. "All of this results in higher prices being paid for by the consumer," he said.

Governor Spitzer yesterday added himself to the list of politicians raising an alarm about the problem. "The medical malpractice insurance market has reached a crisis level," Mr. Spitzer said. He named the state insurance commissioner, Eric Dinallo, as the head of a task force to address the causes of the high medical liability costs.

The state's health commissioner, Richard Daines, said he was 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. "Resolving this problem is necessary to ensure New Yorkers maintain access to a full range of health care services," he said.

Organizations representing New York doctors issued pointed statements expressing shock at the rate hike.

"The 14% increase in physician medical liability insurance premiums announced today will severely worsen the health care access crisis that has already resulted in shortages in several specialties all across New York State," the president of the Medical Society of the State of New York, Robert Goldberg, said.

In a statement that described the new rates as "unsustainable" for New York obstetricians and gynecologists, the chairman of the American College of Obstetricians and Gynecologists' New York district, Richard Waldman, said: "The crisis is real, the crisis is now."

The new rate structure, which will affect doctors across the state, is less than the 16% increase proposed by medical insurance carriers but higher than the 9% increase in 2006. Citing "artificially low rate increases" in recent years, Mr. Dinallo said the hike was "necessary to stave off an industry-wide crisis."

"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," he said. Rates in New York are in the top percentile of the country, the executive director of the American College of Obstetrics and Gynecologists' New York district, Donna Williams, said. She attributed the high rates to an increasing number of malpractice suits filed in the past decade, and to the amount of money being paid to plaintiffs. In the past five years, some such settlements have been worth tens of millions of dollars, Ms. Williams said. While states like Texas, Florida, and California have overhauled their tort law systems in recent years to rein in outsized settlements, New York has not. "It's a veritable crisis," Ms. Williams said.

Along with neurosurgeons and orthopedic surgeons, gynecologists and obstetricians are among those specialists who have been hit hard by malpractice suits. According to the American College of Obstetrics and Gynecologists, 92% of New York Ob-Gyn doctors report that they have been sued at least once. Under the new rate, an Ob-Gyn doctor in the Bronx will pay \$180,490 in liability premiums, up from \$158,325 last year. In Manhattan, an Ob-Gyn doctor will pay \$152,160, up from \$133,474, according to ACOG data.

Rates are determined based on specialty and geographic location. The latest increase went into effect July 1.

The vice president of the Medical Liability Mutual Insurance Company, Edward Amsler, said the increase is a "necessary evil." He said the new rates are close to what actuaries at his company, which is the state's largest medical insurance carrier, indicate is appropriate. "The rates for the past five or six years have been politically held down," he said.

"Nobody wants to have these rates increase. It's not good for patient care, it's not good for doctors, it's not good for the system," he said. But in a litigious society, "the increase in the rate is needed to pay for the verdicts and settlements," he said.

Meanwhile, some interpreted yesterday's announcement as an opportunity to examine alternatives to medical injury litigation.

"This is evidence of a system that needs work," the general counsel for Common Good, Paul Barringer, said. Common Good supports a medical court model in which specialized judges preside over medical injury litigation and rely on independent expert witnesses. "We believe it has a lot of potential to make the system work in a way that is more likely to generate consistent results from case to case," Mr. Barringer said.