

PHARMACY

Risk Management

A Risk Management Newsletter provided as a service by Pharmacists Mutual Companies.

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Newsletter provided
as a service by

**Pharmacists
Mutual** Insurance
Company

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Have you hugged your lawyer today? An attorney friend has a bumper sticker which asks that question. He reports no one has responded, except with various negative comments (some quite humorous). Disliking lawyers has become an American pastime. There are times, however, when a pharmacist may need an attorney.

The number of lawsuits against pharmacists has increased in recent years. When a pharmacist is sued, the pharmacist's or pharmacy's insurance company usually assigns an attorney to represent the client. Attorneys are selected because of special skills and knowledge observed in the insurance company's experience. What does the pharmacist do when insurance is not involved? No insurance policy, not even Pharmacists Mutual's, covers everything. When the insurance policy does not provide coverage, the cost of hiring a lawyer is also not covered.

Not only are lawsuits increasing, boards of pharmacy in several states are becoming more active than in the past. Pharmacists expect boards to discipline members of the profession who violate the law, or are incompetent. Boards of pharmacy have extensive powers, but if a pharmacist is called in front of the board for an official investigation, the pharmacist needs to take prudent steps to protect himself or herself. An attorney experienced in legal administrative practice needs to be consulted.

Another concern has been noted recently. There is a trend for prosecutors to file criminal charges against health care professionals. Malpractice insurance does not cover board hearings or criminal actions.

Too often, pharmacists do not hire an attorney soon enough when faced with a board of pharmacy action or a criminal investigation. Attorneys can often be most effective when consulted early. Pharmacists, however, are reluctant to "look guilty" by hiring a lawyer. However, a good attorney, experienced at administrative law, can usually approach an investigation without giving the appearance of "only guilty people hire lawyers." Boards of pharmacy or prosecutors often find it easier to deal with an attorney than with the pharmacist, who does not understand the system.

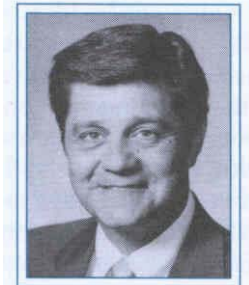
Pharmacists Mutual became concerned with these trends and realized that pharmacists may not seek legal advice when necessary. Malpractice policies do not, should not, and often can not insure against these types of actions. However, we wanted to encourage pharmacists to seek legal advice early. Pharmacists Mutual was concerned enough, that when we redesigned our excess professional pharmacist liability policy for 1998 release; we added a limited attorney fee reimbursement section.

To keep the policy affordable, the new edition Pharmacists Mutual policy provides only limited reimbursement—\$2,500 per year, total. There is a \$100 deductible per occurrence, and then 90% reimbursement of actual fees paid. This is not enough to completely defend a full board prosecution or a full criminal case, but it is sufficient to encourage the accused pharmacist to consult with an attorney early.

There are four covered actions under this new Limited Pharmacist's License Defense Reimbursement coverage. Each is limited to "performing or failing to perform pharmacy services" as defined in the policy. Please review these actions listed on page 3 of your new Individual Pharmacist Professional Liability Policy. See the following section for other changes to the professional liability policy.

Changes in Pharmacist Liability Policy... In addition to the Limited Pharmacist's License Defense Reimbursement coverage mentioned above, PhMIC revised the professional liability policy in the following ways: included definitions of *compounding*, *incident*, and *manufacturing*; included a new limited Certified CPR Malpractice coverage; increased the Supplemental Payments coverage for loss of wages; clarified our intention that the policy be an excess type policy; and now offers optional limits of liability.

With all insurance policies, it is important to read and understand the entire policy. Review your policy when it arrives, or call a Pharmacists Mutual marketing associate (800) 247-5930 extension 26 to request a specimen policy. If you have questions after that review, the marketing associates can also answer them for you.



**Kenneth Baker, R.Ph.,
J.D., Vice President,
General Counsel
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Insurance Co.**

You've probably seen and heard predictions of the **dire consequences the Year 2000 bug (Y2K) will bring**. "So what? How will it affect me or my pharmacy? I've got insurance coverage for this."

Y2K might spell disaster for your business! What if your computer, unable to reconcile the difference between 1900 and 2000, shuts down? What if you can't access your accounts receivable? What if you can't bill your customers? What if you can't supply documentation for a third party audit? What if you can't access a patient's records for a simple refill?

Your insurance coverage is designed to pay you for certain "fortuitous" losses. Fortuitous means "accidental" or "by chance." In the case of the Y2K bug, there is no fortuity involved: if your computer is not Y2K compliant, it is *certain*, that there will be a problem. You have control over whether a loss will occur. The result: your insurance policy will not cover losses related to Y2K, its effect on your computer and its ultimate effect on your business and customers. In other words, if you do nothing, this potential loss will come out of your *own* pocket!

Don't wait until the last minute. Contact your computer/software vendor(s) and find out if your system is Y2K compliant. If it isn't, ask them what you need to do to make your system Y2K compliant. A little time, effort and money spent now could save you a big headache on January 1, 2000!

Should you deactivate your air bags or install an on/off switch? *Probably not*, unless you can't sit at least 10 inches from the steering wheel or use a child restraint seat but have no rear seat. Air bags are saving many more lives and serious injuries than they are causing, contrary to the impression one might get from the general press. Many of the injuries and fatalities attributed to air bags are caused by human error... not wearing seat belts, placing child restraint seats in the front seats of vehicles, etc. The feds and the auto industry are working on lower velocity inflation models, pressure sensitive cut off switches, and manual deactivation switches as ways of helping people protect themselves. Until those are realities —

Air bag risk management - always snugly secure the seat belts of anyone riding in the front seat of your vehicle. Use a rear facing child restraint seat in the back seat of your vehicle. Small statured drivers or front seat passengers should position themselves as far from the steering wheel or dash as is comfortably possible. Don't smoke a pipe when positioned in front of an air bag. Don't set bottles, glasses, or other containers on air bag compartments; they can become missiles upon deployment.

Pharmacists Mutual has a new computer software system... we are now processing new policies and renewals in a gradual conversion process over the next 9 months. You will see new looks in declarations pages, invoices, etc. It will help control administrative expenses. Also, more automated processing will allow better personal service to you when you call. The new system will allow us to store more information regarding your accounts and claims; that info can be downloaded to loss histories which will enable us to help you manage your risks.

As with most new systems, there have been a few problems and delays. Please bear with us while we work through the conversion process!

New invoices... There has been some confusion concerning the invoices printed by the new computer system. Your invoice does not come with the policy. Please do not pay the "premiums" shown on the declarations page of the policy. The premiums shown are prior to deducting dividends. If you pay from the declarations page, most likely you will overpay and be due a refund which causes unnecessary check writing and delays.

Wait for the invoice and pay from that. It will save having to exchange checks!

One other problem area - on installment billings, some clients are not getting billed the first month of the plan because of processing delays. Then, when the policy is issued late, those clients are being billed for two installments in the 2nd month. This is the way the system is designed to function. In the 3rd month, the billing or electronic fund transfer will again be the regular amount. Processing next year will be more timely and that will eliminate this situation.

Cancellations... Cancellation notices from the new system are issued automatically 8 days after the premium due date. The notices then give you 30 more days to make the required payment. *If the payment has not reached our office* within the thirty days, the system then cancels the policy automatically. To avoid the problems associated with reinstating your policy(s) and notifying all the parties who might have an additional interest (mortgagees, lienholders, landlords, etc.), please make sure your payment reaches our office before the cancellation date stated on the notice.

If you have questions about a billing or cancellation notice, call the PhMIC accounting department at 800-247-5930 extension 25.

Auto Policy Quick Claims Facts:

- Even if you have not been issued a citation by investigating law enforcement personnel, you may still be judged "*at fault*" by your insurance company. The difference between civil vs. criminal liability is sometimes a fine line, but, the bottom line is, you don't have to be charged to be at fault.
- A policy with the uninsured/underinsured (UM/UI) motorist endorsement provides coverage for bodily injury. **UM/UI does not cover property damage** to your vehicle. A few states allow uninsured motorist property damage (UMPD) coverage. Check with your auto insurance company to find out if your state has UMPD. If not, collision insurance covers the damage to your vehicle. If you don't have collision insurance or UMPD, you have no property damage coverage in this situation.

Homeowners (and Dwelling) Policy Quick Claims Facts:

- Some homeowner insureds filing claims think the medical payments section of their policy will pay the medical bills of a resident of the insured premises. That is not the case. *Med pay coverage is extended only to a nonresident of your property.* Residents' medical bills would be picked up by a health policy covering the family or that person specifically.
- Trees — \$500 maximum per occurrence (not per tree) coverage is standard. Perils insured against are fire, lightning, explosion, riot or civil commotion, aircraft, vandalism or theft, and vehicle damage if not owned or operated by a resident. *Wind damage is excluded.* However, we will pay for removal of a fallen tree which damages covered property or obstructs access to a driveway on the insured premises.

Building to withstand hurricane damage... This is a topic we will see in the news again this spring. The Institute for Business and Home Safety, a not-for-profit insurance initiative for research and communications concerning natural disasters, recently published *A Homeowners Guide to Hurricane Retrofit*. The booklet presents building or remodeling techniques which can minimize damage from hurricanes. PhMIC has a limited number of these available for policyholders.

If you are contemplating building or remodeling in a hurricane prone area, contact the PhMIC Risk Management Dept. or, if you are in North Carolina, Mississippi, or Alabama, your PhMIC field representative, for a free copy of this valuable booklet. It will help prevent losses to property, and possibly lives, should a hurricane strike.

Short term health coverage... Are you graduating from pharmacy school and going off your parents' health care policy? Are you changing jobs? Are you on a sabbatical from work? You should definitely buy a short term health insurance policy. An example, a pharmacy student purchased a 6 month policy for \$194 through our agency. He subsequently contracted a serious illness and has had more than \$500,000 in medical bills (with more expected) covered by that policy. The premium on a short term health policy is a small price to pay for the peace of mind that comes with knowing you are not going to be financially ruined by an unexpected illness or injury.

The high cost of insurance fraud costs everyone. For the year 1996, the most recent figures available, it is estimated that fraud cost U.S. companies \$400 billion. Small to medium sized firms are most susceptible. They generally have longer term, more trusted employees and less resources to fight fraud. Most common forms of fraud are: theft of money, purchasing fraud, theft of company property, misuse of company time, workers comp fraud and theft of trade secrets or client lists.

If you suspect fraud, investigate and document thoroughly (if you need help, hire an outside licensed firm), conduct audits when appropriate, report your findings to your insurance company, your local law enforcement agency, and possibly, the National Insurance Crime Bureau (800-TEL-NICB).

Fraud loss prevention — conduct background checks (at least check references), establish rules of conduct and inform all employees of them, consider security systems to protect property, establish password and firewall security in your computer system, conduct routine audits and inventories, enforce mandatory vacation policies for employees in cash-handling positions, and last, but certainly not least, establish a conduit for employees to report misconduct or suspicions. Often, they know more than you do! Contact PhMIC Risk Management at 800-247-5930 extension 229 for help or more info.

Pharmacy Marketing Group, Inc. (PMG) is the new name for Pharmacists Financial Services (PFS). The focus is the same, marketing and sales support of insurance products and financial services to the pharmacy community. Steve Firman is the appointed CEO. PMG is headquartered in Waverly, IA. Mailing address is PO Box 299, Waverly, IA 50677. Phone is (319) 352-4440. PMG is owned jointly by 18 state pharmacy associations and PhMIC.

Workers Comp - Worker Safety... The workers compensation situation continues to improve with the attention it has received over the last couple of years. Loss ratios are down for most clients, although some continue to struggle with high experience modifiers. Those seeing the biggest improvements have been the accounts where worker safety has become a high management priority. Worker safety programs and committees, consistent accident investigations, and aggressive back to work programs are common to the best performing clients. The improvements have allowed Pharmacists Mutual to continue to pay dividends on workers comp policies. The dividends are a real money saver to most, and help offset the high modifiers for the less fortunate.

Help is available - call the Risk Management Department of Pharmacists Mutual for help in establishing new cost control programs or fine tuning already existing plans. Call (800) 247-5930 ext. 229, or e-mail us at Jack_Williams@phmic.com.

<http://www.phmic.com> Visit our web site for general company information, past issues of *Risk Management in Pharmacy*, obtaining a quote, more in-depth analyses of claims coverage scenarios, and late breaking PhMIC announcements. Coming soon - on-line applications.

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Pharmacists Mutual on the grow... PhMIC continues to expand into new states. Next - Rhode Island and South Carolina. Also, **Pharmacists National Insurance Corporation**, a newly formed national agency, to procure coverages that Pharmacists Mutual does not write itself. Coming soon - new programs targeted at the special needs of **hospital pharmacists** and **chain store pharmacists**. The **pharmacy student program** is also being reworked. Watch for those improvements.

What business is your Workers Compensation plan designed for? Pharmacists Mutual offers *specialists* in the pharmacy industry, excellent *claims management*, *low total cost*, *Risk Management/Loss Prevention* services; all with an A+ (Superior) rated company. You owe it to yourself and your business to check for excellent coverage, competitive premiums, and superior service. Call (800) 247-5930, extension 26, for details on the PhMIC difference.

Shedding Light on Halogen Lamps... Inexpensive. Convenient. Adjustable. Dangerous! That just about sums up the characteristics of the widely used halogen floor lamps. The tubular halogen bulbs in these lamps burn at extremely high temperatures compared to incandescent bulbs. The technology is similar to that used in halogen lamp cooktops. That alone should signal that caution is required. Nationally, 189 fires have been linked to the lamps. Those fires also caused 11 deaths. New products burning much less energy and thus creating less heat, while providing the same amount of light, are coming soon. Until then,

Halogen Lamp Loss Prevention — keep the lamps away from bunk beds, curtains, drapes or other combustible material, use a dimmer switch to cut power if available, don't leave a halogen light on when you leave the room, and never drape a fabric over the lamp. Watch for the replacement product due early in '98.

Do you have any questions or requests concerning

✓ The contents of this newsletter? ✓ Safety Consultation Services?

Call 800-247-5930 ext. 229

or E-mail Jack_Williams@phmic.com

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