

May 17, 2012

New Hampshire Senate  
107 North Main Street  
Concord, NH 03301

Re: SB406

Dear Senate Members:

Medical Mutual Insurance Company of Maine was established by a group of Maine physicians in 1978. As a mutual company, when experience is better than projected, profits are returned to our insureds in the form of dividends. We began to write insurance for physicians, hospitals and other healthcare providers in the State of New Hampshire in 1993. We are a small, regional carrier with an A.M. Best rating of A-. Together, Coverys (ProSelect Insurance Company) and Medical Mutual's business accounts for 47% of the healthcare premium dollars generated by the standard market medical negligence insurance in the State of New Hampshire. (By "standard market medical negligence insurance," I am referring to insurance companies who are admitted, licensed carriers overseen by the New Hampshire Department of Insurance.)

I have closely reviewed the amendments to SB406 and have discussed them with representatives of Coverys. We agree that the amendments made to SB406 do not serve to make this "early offer" program an option that either we or our insureds can participate in. For many reasons, we do not feel this program will in any way benefit our insureds. However, from an industry perspective, we are equally as concerned about SB406's failure to take into consideration certain issues that will significantly impact our industry.

1. We are concerned about the provision for the insurance carrier to assign a "neutral advisor" to an unrepresented claimant/patient, as this will open the carrier to undue risk of litigation in the event the relationship between the claimant/patient and their carrier-assigned "advisor" sours for whatever reason. Assignment of an "advisor" to an adverse party is a significant conflict of interest for Medical Mutual and every other standard lines medical negligence insurance carrier, and will increase our own insurance costs.
2. Standard market carriers are not organized to allow for ongoing payment of medical expenses or lost wages to a claimant. As a small, regional carrier, Medical Mutual pays its bills twice per month and we have one employee in charge of paying bills from the Claims Department. The provisions of SB406 would definitely have staffing implications for Medical Mutual.
3. In addition, unlike workers compensation, there are many reporting obligations regarding the settlement of any money in a medical negligence claim. In the event of ongoing payments contemplated under SB406, Medical Mutual and other carriers would be obligated to make monthly updates on indemnity amounts paid on behalf of each physician insured to the New Hampshire Board of Medicine and to the National Practitioners Data Bank. Additionally, we would be obligated to make quarterly updates on indemnity amounts paid on behalf of each physician insured to CMS, on behalf of all claimants who are Medicare beneficiaries.

4. At the same time, physicians and other healthcare providers will be attempting to submit paperwork, including the total amount of indemnity paid on any claims, for re-licensure and re-credentialing. It is extremely likely under the provisions of SB406 that indemnity amounts reported by physicians and by insurance carriers will not match, resulting in investigation by multiple licensing and credentialing bodies.

5. For insurance carriers, this very real scenario presents an undue administrative reporting burden. There is also an added impact on carriers that may not be obvious to those outside the insurance business. The provisions of SB406 will keep files open and reserves up on files for years, if not decades. This will have a direct impact on the actuarial claims analysis upon which rates are based. In turn, this situation will impact the carrier's ability to negotiate a favorable reinsurance program, which will also raise costs.

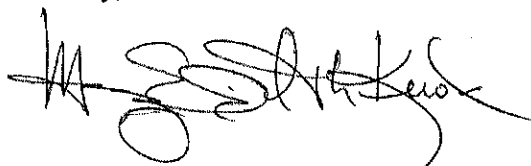
6. We are also extremely concerned about the fact that this bill will essentially serve to spawn potentially large numbers of claims for contribution amongst healthcare providers, which will also serve to increase the cost for insurance carriers doing business in the State of New Hampshire.

This bill will be extremely costly for Medical Mutual and other insurance carriers, in terms of actual costs we are responsible for pursuant to the bill, the cost of complying with the increased administrative burden and other related costs, such as an increase in our own reinsurance rates and also our own business insurance costs.

For many years now, the State of New Hampshire has declared the medical negligence insurance market to be "non-competitive". With SB406, the State would be making it increasingly difficult for insurance carriers like Medical Mutual Insurance Company to do business in a State we have long been committed to. Based upon my 29 years of experience in the medical professional liability insurance business, if our industry is placed in the position of having to handle claims asserted under SB406, it is difficult to imagine that SB406 will not directly raise our costs for doing business in the State of New Hampshire. When that happens, at a minimum, rates will inevitably need to be adjusted. Medical Mutual respectfully requests that the Senate reject SB406.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Elizabeth Knox", written in a cursive style.

Mary Elizabeth Knox  
Vice President - Claims

MEK:mcw