




DATE: July 29, 2011

TO: All Interested Parties

FROM: Michael F. Consedine  
Insurance Commissioner 

SUBJECT: Additional Medical Malpractice Basic Insurance Capacity

In accordance with Section 711 of Medical Care Availability and Reduction of Error (Mcare) Act (the "Act" or "Act 13"), the Pennsylvania Insurance Department conducted a study to determine whether sufficient "additional basic insurance capacity" in the medical malpractice insurance marketplace exists to allow a step-up of the statutorily based limit in 2012.

While there have been improvements in the marketplace from a capacity standpoint since the passage of Act 13 in 2002, I have determined that the available information, combined with other market uncertainties, does not allow for a finding of additional basic insurance capacity to allow a step-up in the basic insurance limits at this juncture.

There are several factors currently present in our medical malpractice marketplace that may have a material impact on current capacity levels including: a prolonged and uncertain economic recovery; implementation of national health care reform; a dynamic health insurance environment in Pennsylvania including the emergence of integrated health systems; and, the recent enactment of the "Fair Share Act," which we anticipate will have a positive effect on the insurance marketplace. Given these uncertainties, it is not clear that a step-up is prudent at this time. As contemplated by Act 13, an additional two years to study developing marketplace and economic trends, RRG stability, and the positive effects of Act 13 and the Fair Share Act in general, is needed for the Department to determine whether a step-up in the basic insurance limits is appropriate.

In light of the Department's and PricewaterhouseCoopers' ("PwC") review and analysis of the capacity, it cannot be definitively found that additional basic insurance capacity is presently available and as such for calendar year 2012, the respective limits of coverage for the primary market and Mcare shall remain unchanged.