



provisions

The Big Asterisk*

** All 2020 medical professional liability analytics are subject to change due to the impact of COVID-19.*

MPL loss rates
are increasing by

3%
annually.

*Aon/ASHRM Hospital
and Physician
Professional Liability
Benchmark Analysis*

“Even before the pandemic, professional liability insurers were reporting varying degrees of market pressure, capacity limitations, changing risk profiles, and price increases.

COVID-19 and the subsequent lockdowns, travel bans and event cancellations, as well as the economic turbulence, have put considerable added pressure on professional liability insurers.”

Sridhar Manyem
Director of Industry Research
A.M. Best

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A Word from the CMO

Mid-pandemic Market Dynamics

Every graph charting healthcare professional liability trends, every market commentary, every historical analysis going forward is going to include a footnote: “2020 was an exception.”

As the year kicks off, so too does the analysis of the progress and achievements of last year. And you can be sure those lines on the bar chart are not going to follow the trend set by those from the previous years.

We all know why. It’s easy for us who work alongside the healthcare industry every day to recite dozens of facts about how healthcare delivery changed in 2020 off the top of our heads. Those brought new opportunities for malpractice lawsuits, and a constantly-evolving standard of care to consider when forming a defense.

We also know that increasing claim severity fueled by social inflation didn’t go away. There has just been significantly fewer opportunities for malpractice cases to be tried and verdicts rendered. We know claims professionals and attorneys will eventually be heading back into the court room.

What we can’t know with certainty is where the dust will settle. Will the “healthcare heroes” mentality prevail, making it distasteful to sue your community physician? Is the shift to telemedicine really permanent? What kind of case law will come from the variety of healthcare immunity orders?

Now more than ever, it is important to focus on responsible pricing and maintaining adequate reserves. We do not know when our clients will need to take advantage of their coverage—or the conditions of the lawsuits which will drive that need—but we can say with certainty that day will come. When it does, it is our duty to be prepared to offer all of the protection to which they are entitled by their policy.

Thank you for all the work you do to share this message with your clients. We will continuously work to provide you with up-to-date information and materials to assist with those efforts.



Jeff Bowlby
Chief Marketing Officer

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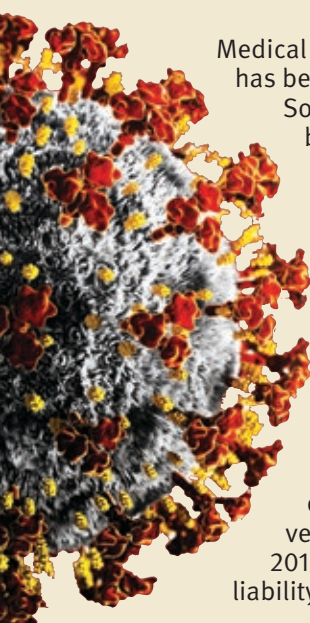
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The Big Asterisk*



Medical professional liability (MPL) insurance has been in a soft market cycle since 2005.

Soft markets are generally characterized by coverage that is widely available, policy terms have been "loose," and priced-based competition is common.

In a hard market cycle, insurance becomes less available, policy conditions tighten, and premiums increase. These market conditions typically occur as claim severity increases. Excess jury awards put pressure on insurance rates, drive up the cost of reinsurance, and ultimately push liability insurers' combined ratios over 100%. A significant increase in verdicts over \$10 million in 2018 and 2019 indicated the healthcare professional liability industry was entering a hard market.

However, the healthcare landscape changed dramatically in 2020. Elective procedures were postponed or cancelled, emergency rooms overflowed with COVID-19 patients, and the need for PPE skyrocketed. With the COVID-19 pandemic still front page news, it is too early to tell the true impact of these events on malpractice claims—and ultimately the healthcare liability insurance industry.

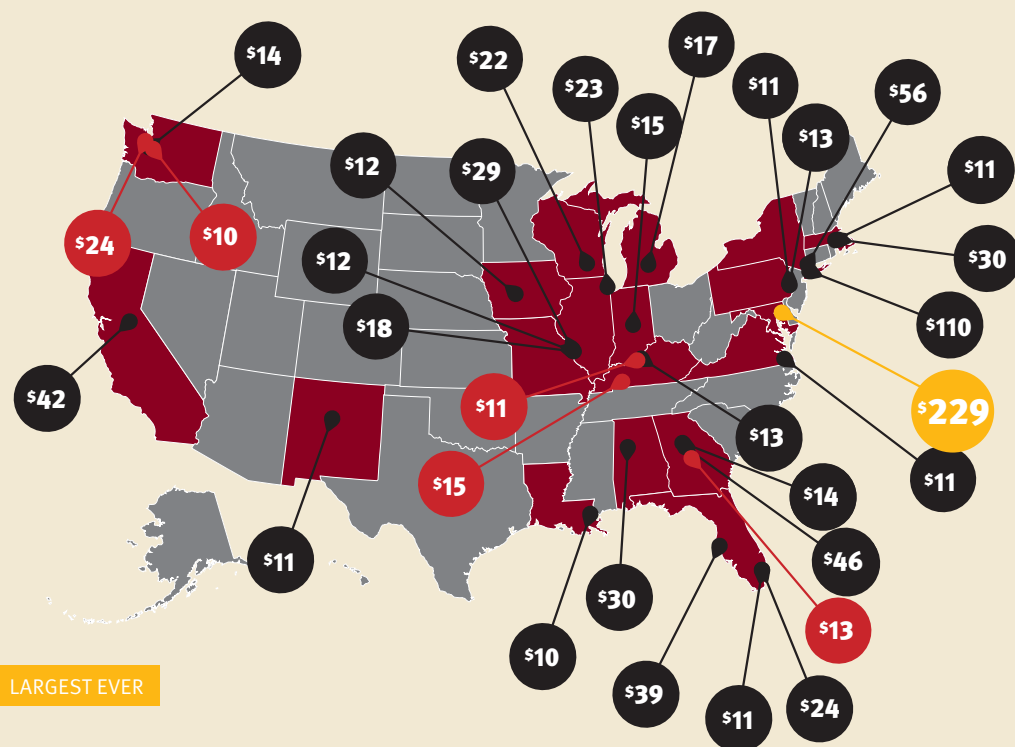
We have highlighted four areas of increased risk which are likely to make an impact:

- Elective procedure deferral
- Court closures and trial delays
- Increased use of telemedicine
- Discrepancies in healthcare liability immunity

Shock Verdicts Still Fuel Social Inflation

Numerous medical malpractice jury verdicts and settlements in excess of \$10M were seen in 2019 and continued into 2020 before courts shut down due to COVID-19.

Due to increasing media reports of shock verdicts and other societal factors, the public's assumptions and expectations about what a jury award should be continue to rise. This is called **SOCIAL INFLATION**.



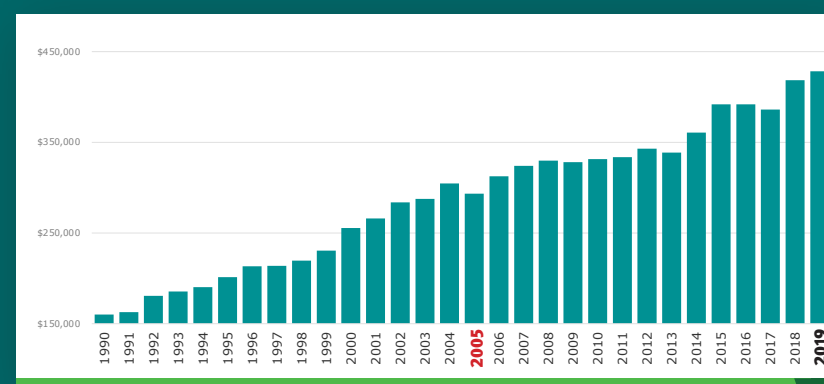
2019 VERDICTS 2020 VERDICTS LARGEST EVER

2020 Market Dynamics

ProAssurance continues to monitor market conditions and update the Market Dynamics report as new information becomes available. The most recent figures indicate that market trends continued as predicted through year-end 2019.

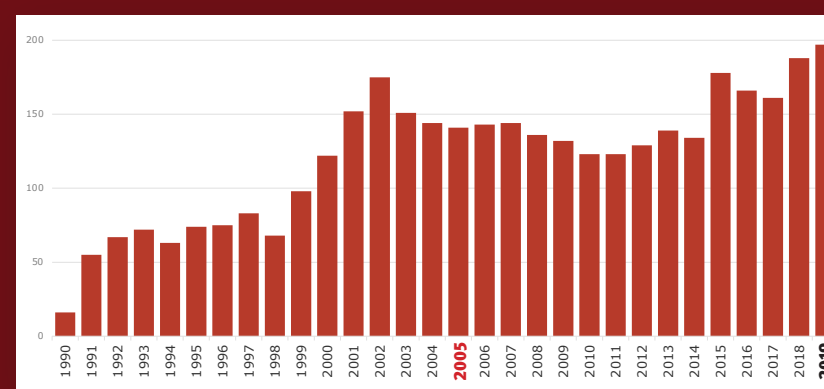
Nationwide Claim Severity (Average Paid Indemnity)

The National Practitioner Data Bank indicates severity is trending upwards in physician (MD/DO) claims.



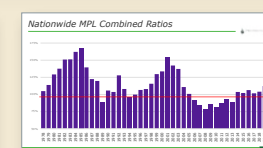
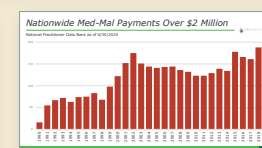
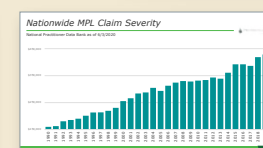
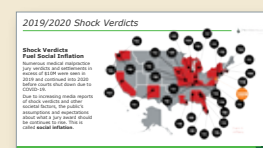
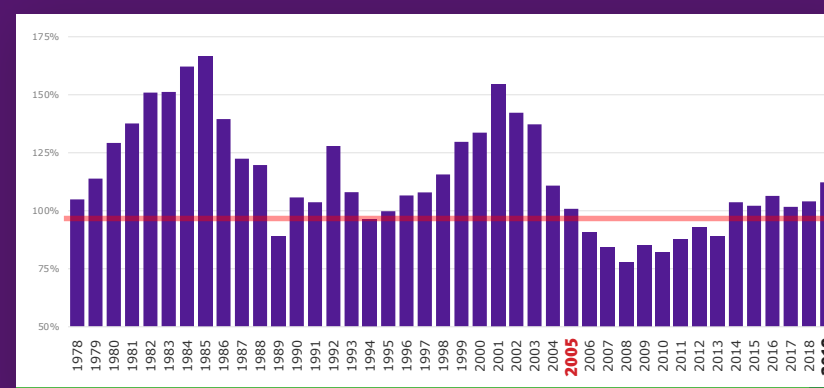
Nationwide Med-Mal Payments Over \$2 Million

According to the National Practitioner Data Bank, medical malpractice indemnity payments for physicians (MD/DO) are above historic high points on a national scale.



Nationwide MPL Combined Ratios

A.M. Best data shows combined ratios are rising for most carriers. When combined ratios exceed 100%, corrective actions must be taken to ensure stability.



ProAssurance market dynamics slides are available at ProAssurance.com/MPLMarketDynamics.

DEFERRED ELECTIVE PROCEDURES

HEALTHCARE'S CRISIS WITHIN A CRISIS

Now back—perhaps—to our previously scheduled medical programming?

If COVID-19 vaccines work as hoped, patients and healthcare providers can soon turn their attention to elective treatment and procedures that were deferred while the nation coped with the pandemic.

If and when that happens, medical professionals and their liability insurers will find out how long and how far public support extends for healthcare professionals, along with practitioners' immunity for COVID-19 related liability.

Putting off treatment

It's a maxim among healthcare providers that the longer you defer care for chronic conditions, the more costly and complicated that care becomes, along with increased rates of morbidity and mortality.

According to the Centers for Disease Control (CDC), more than 40% of Americans surveyed in June 2020 reported that they had put off seeking treatment due to concerns surrounding COVID-19 at a healthcare facility; 12% of respondents indicated they had passed up care for an urgent or emergency condition.¹

An article posted by the Healthcare Financial Management Association refers to deferrals of elective care as “the crisis within the crisis” of the pandemic. The authors cite two trends in 2020—decreased rates of cancer detection and increased rates of diabetic foot amputations—as “emblematic” of the potential consequences of deferred elective care.²

Extent of immunity

In response to the potential for increased MPL, the American Medical Association (AMA) and Medical Professional Liability Association (MPLA) have urged states to go beyond existing liability shields for medical emergencies and implement additional measures to protect practitioners from liability for patient injury or harm:

- Caused in the course of providing medical services in response to the COVID-19 outbreak
- Caused by volunteer physicians acting in good faith for care provided in response to COVID-19
- Resulting from a federal, state, or local directive, including decisions to cancel, delay, or deny care as a result of the COVID-19 pandemic³

Several states have enacted laws or executive orders expanding practitioner immunity during the pandemic emergency. ProAssurance provides a comprehensive list of state actions on a page of its website devoted to “COVID-19 and Immunity Orders.”

Each of the provisions promoted by the AMA and MPLA can be invoked to disclaim liability for injury or harm arising from deferral of an elective procedure, depending on whether such a measure was in effect at the time, and how directly the decision to defer treatment was related to the pandemic.

Application of orders

Consider, for example, the original order issued in April by New York Gov. Andrew Cuomo, which stated that physicians, nurses, and clinical assistants would be exempt from civil liability for any injury or death “sustained directly . . . in support of the State’s response to the COVID-19 outbreak.” The order included a provision that the immunity would not apply to any reckless or grossly negligent conduct on the part of a practitioner; similar provisions are a common feature of immunity measures in other states.

“Whatever the reason for someone to defer care, the cumulative result for healthcare facilities and practitioners will be more patients with more advanced conditions requiring more complicated care—a recipe for more bad outcomes and more professional liability claims.”

Imagine that an oncologist in New York during that period advised a patient to postpone a cancer test or procedure because the hospital was overwhelmed with coronavirus patients and essentially closed to all but critical emergency care.

How would Gov. Cuomo’s order apply to the oncologist’s recommendation if the patient was later found to have a more advanced stage of cancer because it was not detected sooner? What if the oncologist’s workload had been unaffected, or even lightened, by pandemic conditions? Was he or she duty-bound to recommend the test and find a facility where it could be performed? What relevance would “the State’s response to the COVID-19 outbreak” have on that decision?

Whether our hypothetical oncologist’s conduct was reckless or grossly negligent would have to be tested in court—a scenario that could play out across the country.

Prolonged emergency

Among the many unprecedented aspects of the COVID-19 pandemic is that it has become a prolonged emergency whose severity has waxed and waned in different regions at different times.

On a national scale, the U.S. experienced two major surges of infection in 2020, one in the early spring and another in the late fall and early winter—still ongoing as this report is written. Clinical decisions are most impacted by conditions on a state and local level, however, where surges of infection and measures to deal with them appeared in different places at different times throughout 2020.

In some jurisdictions, measures instituted during the first general surge, when there was a lack of preparedness and a shortage of PPE, ventilators, and other critical supplies, were renewed or extended for a second surge when facilities were better-prepared and better equipped.

Thus, even with the same liability protections in place, a clinical decision made early in the crisis, when care facilities were under acute distress, might be judged differently from an equivalent decision made under less distressed conditions later on.

Mixed impact

Yet even if deferred care were to result in widespread health complications, that won’t necessarily have a big negative impact on the market for MPL insurance. Observers cite a few trends that could shield practitioners from a harsh liability environment.

One trend is the pandemic-induced backlog in jury trials, the favored venue of medical malpractice plaintiffs, as courts remain closed for all but the most pressing cases. As that continues, plaintiffs’ attorneys are losing revenue, and may be more inclined to quickly settle claims.

Moreover, in most cases it is patients, not caregivers, who are deciding to defer care. In general, the medical profession has been vocal in reminding the public that care is still available through video consultations, and that safe in-person visits can be arranged when necessary.

Still, whatever the reason for someone to defer care, the cumulative result for healthcare facilities and practitioners will be more patients with more advanced conditions requiring more complicated care—a recipe for more bad outcomes and more professional liability claims.



Joseph S. Harrington, CPCU
Contributing Author

Sources:

1. Czeisler ME, Marynak K, Clarke KE, et al. Delay or Avoidance of Medical Care Because of COVID-19–Related Concerns — United States, Centers for Disease Control and Prevention, June 2020; accessed at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a4.htm>
2. Ezra Mehlman and Dan Mendelson for the Healthcare Financial Management Association, “COVID-19-deferred care: The crisis within the crisis,” Oct. 30, 2020; accessed at <https://www.hfma.org/topics/financial-sustainability/article/the-crisis-within-the-crisis--preparing-for-the-wave-of-covid-19.html>
3. American Medical Association and Medical Professional Liability Association, “COVID-19: Recommendations for Pursuing Liability Protections Through State Action,” April 2020; accessed at <https://www.ama-assn.org/system/files/2020-04/state-guidance-medical-liability-protections.pdf>

40% of Americans surveyed reported that they had put off seeking treatment for fear of contracting COVID-19 at a healthcare facility travel restrictions.

12% of respondents indicated they had passed up care for an urgent or emergency condition

Court Closures & Trial Delays

A Cause for Concern? We Asked Our VPs.

Courts closed their doors nationwide to address social distancing guidelines in 2020. This has left many healthcare professional liability claims professionals wondering when their work in the courtroom will resume—and what the trial landscape will look like at that time.

ProAssurance Regional Claims Vice Presidents Vicky Gould, Frank Bishop, and Bill O'Malley shared what they are experiencing, and what they are watching as we move into 2021.

How were the courts in your territory impacted by COVID-19?

Vicky: We have not had any trials since COVID-19 began, although one federal judge was trying to force a case to trial in Texas. Oklahoma has had a few in-person trials but not involving our cases. Hearings in Texas are taking place virtually, as are many depositions.

Frank: There have been no trials since March 2020 in my territory, but there have been limited virtual trials for uncomplicated, non-jury trials.

Bill: We had no trials go forward after COVID-19 issues began in March. While many trials were moved to dates later in the year, nothing went forward in 2020.

What are your top concerns for addressing the upheaval in the claims environment?

Bill: Increasing court dockets will cause judges to implement alternative dispute resolutions, like mandatory mediation and settlements conferences, etc. These processes are geared to get defendants to offer money even in cases that are very defensible.

Vicky: Cases that need to be tried are delayed over and over. These delays in getting cases to trial drive up the accrual of prejudgment interest and increase ALAE. We're also being pushed to mediate cases prior to completing the necessary discovery required to fully evaluate a case.

Frank: I am concerned about possible reluctance of judges to provide favorable rulings in order to pressure parties into settlement.

What should we keep an eye on as we consider recent increases in claim severity?

Frank: There needs to be a continued focus on adequate reserving and adequate premium pricing. We have seen an overall decrease in new claims during the current pandemic; one wonders whether there will be a significant rebound effect with wholesale claims filings as the social/health environment improves.

Bill: We do not want to lose an edge in liability analysis and decision-making when cases start proceeding again after a long period of inactivity.

Vicky: My directors and I have multiple concerns.

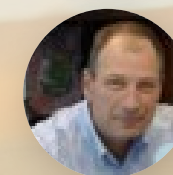
1. The courts are changing along with the jurors being more sympathetic to plaintiffs.
2. The goodwill initially engendered for healthcare workers during COVID-19 may not be as strong as the clamor for vaccines becomes frustration with sluggish rollout.
3. Case delays due to COVID-19 can increase ALAE.
4. Complicated corporate structures of groups and their entities lead to additional expense when they're named in lawsuits—many times requiring complex coverage analysis as well.



Vicky Gould



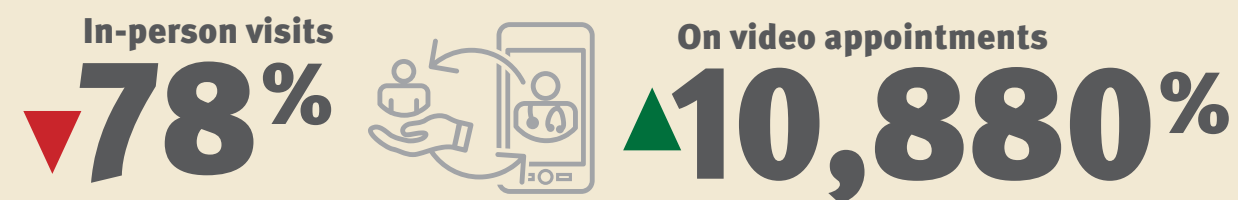
Frank Bishop



Bill O'Malley



Post-pandemic Use of Telemedicine Expected to Continue



Once the COVID-19 outbreak was labelled a pandemic in the United States in early 2020, patients began postponing or cancelling healthcare visits. For many, this was driven by a fear of contracting the virus at a healthcare setting. The Mayo Clinic reported seeing a 78% drop in in-person visits from March to April 2020. But, while in-person visits plummeted, Mayo Clinic digital health services reported a 10,880% increase in video appointments.¹

These results are not abnormal. In a survey conducted by GlobalData, 79% of specialists said they had increased their use of telemedicine during the pandemic. This was both a way to keep in line with social distancing guidelines and to ease the burden on overwhelmed healthcare systems.²

Sources:

- <https://www.sciencemag.org/features/2020/11/telemedicine-takes-center-stage-era-covid-19>
- <https://www.healthcareitnews.com/news/vast-majority-specialists-increased-use-telehealth-tech-during-covid-19-pandemic>
- <https://www.healthcareitnews.com/news/cms-relaxes-more-rules-around-telehealth-allowing-care-across-state-lines>
- <https://www.foley.com/en/insights/publications/2020/12/top-five-new-telehealth-policies-in-medicare-2021>

CMS steps in

To encourage facilities to take advantage of telemedicine, the Centers for Medicare and Medicaid Services suspended restrictions that previously limited its implementation. Reimbursement for telemedicine visits were expanded, and physicians at rural hospitals were permitted to care for patients across state lines.³

With its 2021 payment rules, CMS made additional changes which further encourage the use of telehealth to address the public health emergency. Several new telehealth services were added to the reimbursement schedule, the frequency of telehealth visits in nursing homes was increased, and additional communication technologies were approved, to name a few.⁴

Telemedicine Liability Considerations

While the use of telemedicine expanded due to the pandemic, the liability concerns associated with its use remained largely the same. The [ProAssurance Risk Resource Guidelines](#) outline the following as concerns physicians should remain mindful of when incorporating or expanding telemedicine use in their practice. This is of particular note for those new to using telemedicine as part of their practice.

- **Review your insurance policy before assuming you have telemedicine coverage.**
- **Some states allow the practice of telemedicine across state lines without additional licensure, but some consider this practicing medicine without a license. Remain up-to-date on the laws of your home state and those of your patient’s state.**
- **Technology can interrupt the continuity of care. If your treatment of the patient will be limited in nature, consider how you will share information concerning your treatment of the patient with the patient’s primary care physician.**
- **Consolidate all communications in a unified patient record.**
- **Time lapses in documentation increase risk; therefore, update the medical record in a timely fashion.**
- **If a physical examination of the patient is required to meet the standard of care, decline to treat the patient remotely.**
- **Develop informed consent guidelines specific to telemedicine.**

ProAssurance insureds have access to the Risk Resource Guidelines on the secure services portal at [ProAssurance.com](#).

Discrepancies in Immunity Protection

17 states enacted new healthcare liability related statutes for health professionals during the pandemic

17 states issued executive orders providing some level of liability protections to healthcare providers

6 states had laws already in place

The **Medical Professional Liability Association (MPLA)** has been tracking state-specific government activity relating to healthcare immunity in managing the COVID-19 pandemic. In their analysis, activity is broken down into two categories, legislation and executive orders. These are further broken down into authorized and “unauthorized” actions.

By our count, 17 states have enacted new statutes related to liability for health professionals during the pandemic. Five additional states already had laws in place providing for liability protections in the event of a state disaster or public health emergency. What these laws do, however, varies substantially. Some provide full immunity (absent gross negligence or willful misconduct) for any care provided during the pandemic. Some provide that immunity only to the treatment of COVID-19 patients or patients suspected of having COVID-19. Some of these protections only apply to allegations of transmission of the COVID-19 virus, and not to the actual care provided. In addition, some of the laws only cover healthcare professionals, while others cover facilities as well.

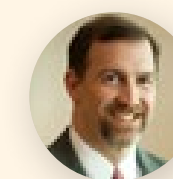
Regarding Executive Orders, we are aware of 17 states that issued EOs providing some level of liability protections (in some cases, states issued EOs and then later enacted statutory protections, so there is some overlap here). Some provided protections to all healthcare providers and facilities, others limited the protections to care provided “in response to the public health emergency,” although it’s not always clear if that covers care provided to non-COVID patients.

The bigger concern, from my point of view, is the question of authorized vs unauthorized. In some states (e.g. New York, Michigan, etc.), the state had laws on the books that gave the governor sweeping powers to take actions such as providing liability protections. In others, the governor merely has the authority to temporarily suspend laws that interfere with the response to a disaster or public health emergency. In those cases, it is not always clear whether that actually includes waiving liability laws.

The remaining states have EOs on the books but do not establish any expressed statutory authority to waive liability—the governor just went ahead and issued in the executive order. Those are the ones I refer to as “unauthorized.” My guess is that they will eventually be challenged and found as an unconstitutional violation of the separation of powers in those states.

COVID-19 Pandemic State Government Activity	
Statutes/Bills	CA, GA, IA, ID, IN, KS, KY, LA, MA, MD, MI, MS, NC, NJ, NV, NY, OH, OK, TN, UT, VA, WI
Executive Orders	AL, AR, AZ, CT, GA, HI, IL, KS, MI, MS, NC, NJ, NV, NY, OH, OK, PA, RI, TN, VA, VT
DOI Issuances	CA, IN, KY, MA, NY, WI

https://www.mplassociation.org/docs/GR/COVID-19/State_Government_COVID-19_Activities_Compendum_MPL.pdf



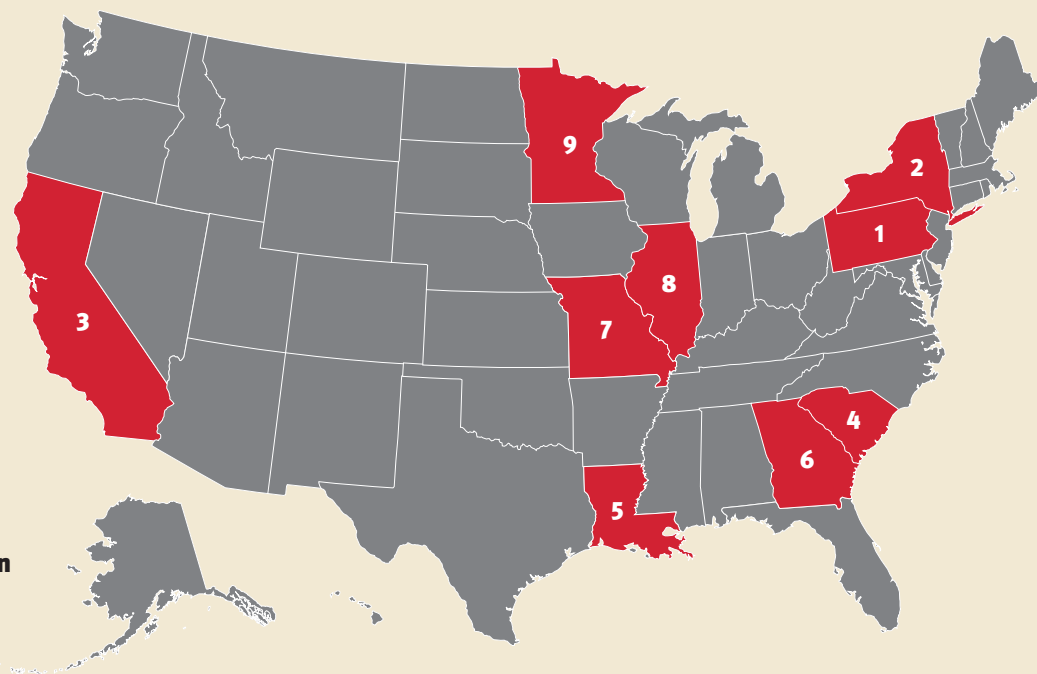
Mike Stinson
Vice President of Government Relations & Public Policy
Medical Professional Liability Association

The Physician Environment 2020-2021

Judicial Hellholes

The American Tort Reform Foundation issued its 2020-2021 Judicial Hellholes report mid-December 2020. The organization has created this list since 2002, identifying documented places where judges in civil cases “systematically apply laws and court procedures in an unfair and unbalanced manner.”

1. Philadelphia court of common pleas & the Supreme Court of Pennsylvania
2. New York City
3. California
4. South Carolina Asbestos Litigation
5. Louisiana
6. Georgia
7. St. Louis, Missouri
8. Cook, Madison, and St. Clair Counties, Illinois
9. Minnesota



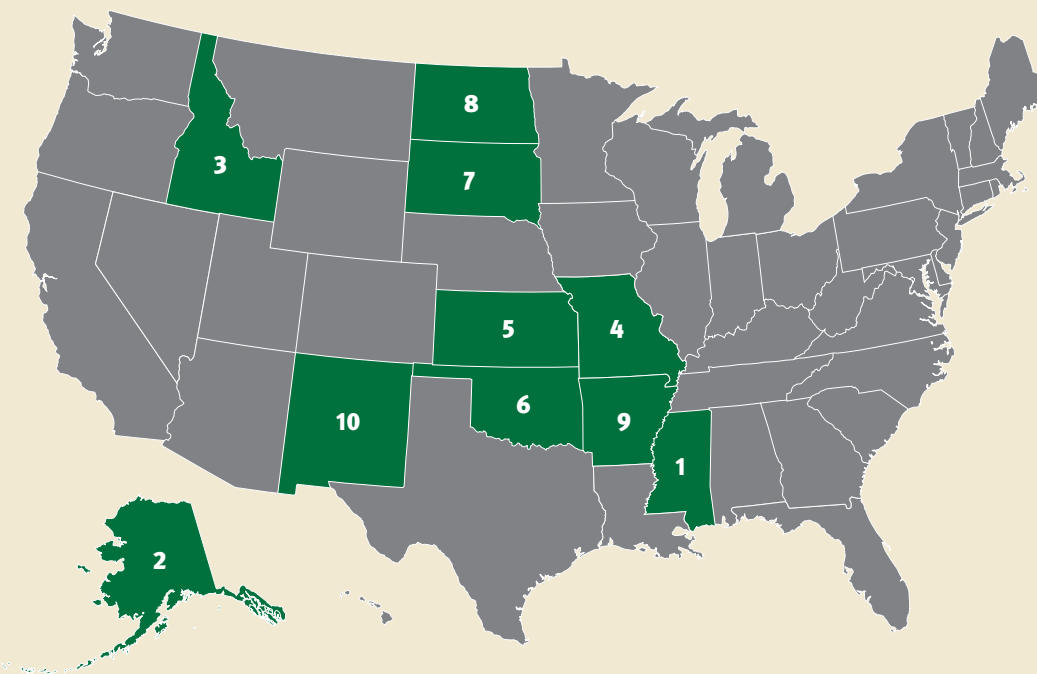
Source: <https://www.judicialhellholes.org/reports/2020-2021-executive-summary>

The practice environment in which physicians work varies significantly across the country. This impacts everything from where physicians want to live, their mental health, and the steps they must take to protect their practice.

The 10 Best States For Physicians

Medical Economics annual ranking as of January 1, 2021
States ranked based on salary, professional liability premiums, cost of living, tax climate, and physician density.

1. Mississippi
2. Alaska
3. Idaho
4. Missouri
5. Kansas
6. Oklahoma
7. South Dakota
8. North Dakota
9. Arkansas
10. New Mexico



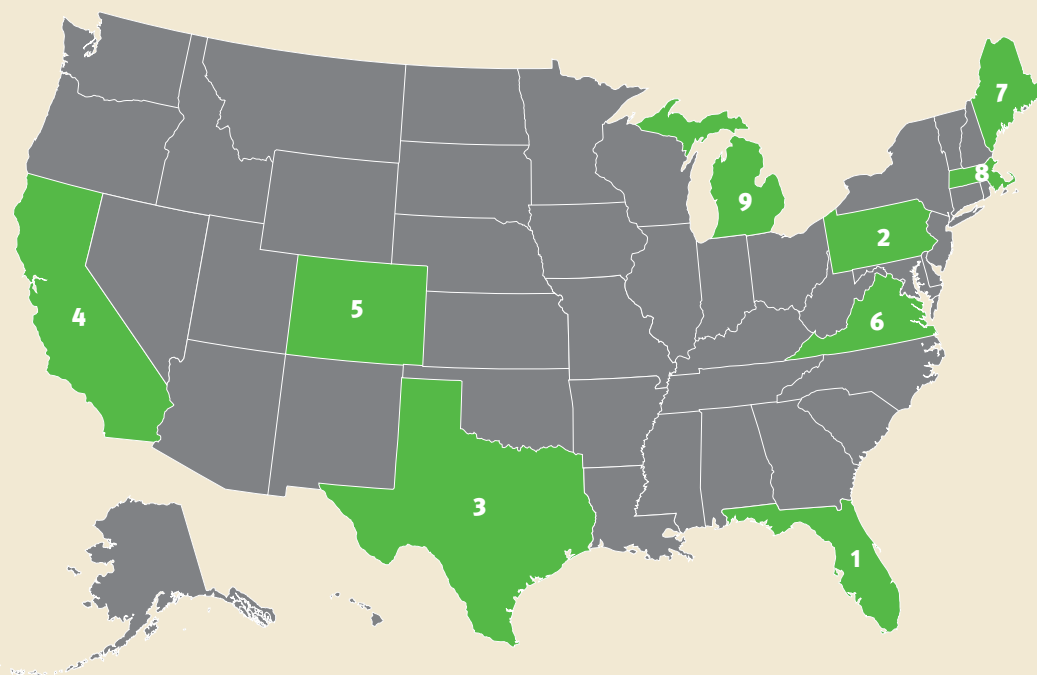
Source: <https://www.medicaleconomics.com/view/the-10-best-states-for-physicians-in-2020>

States with the most 2020 Top Hospitals and Pandemic Heroes Awards

The Leapfrog Group

Leapfrog awards the top five percent of hospitals annually. This year's awards also included those that went above and beyond in addressing the COVID-19 pandemic.

1. Florida
2. Pennsylvania
3. Texas
4. California
5. Colorado
6. Virginia
7. Maine
8. Massachusetts
9. Michigan

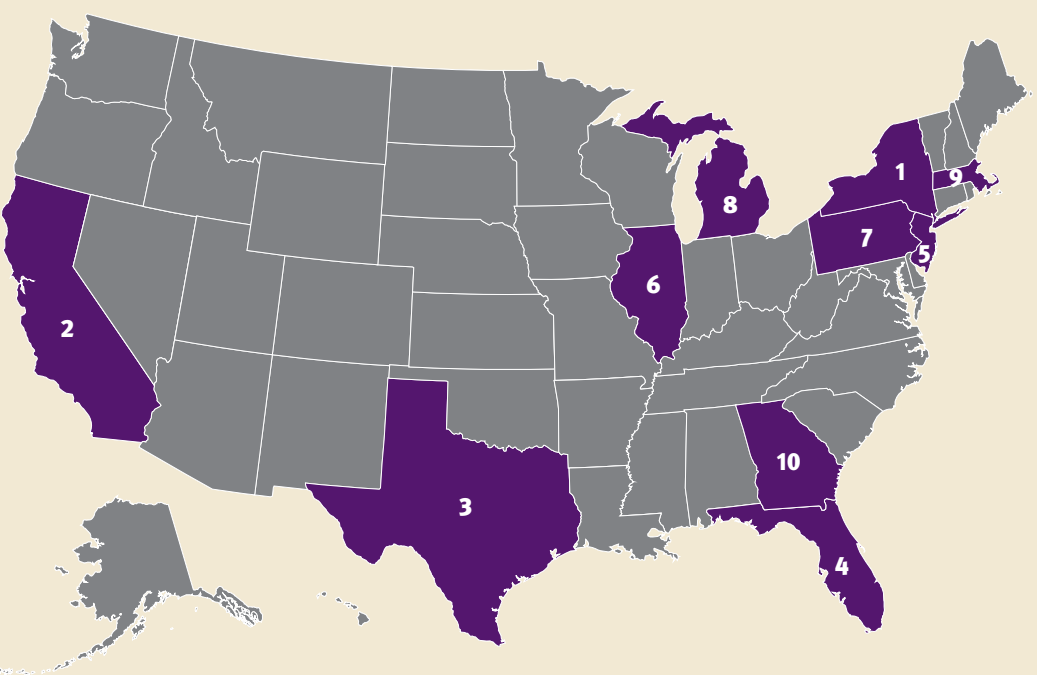


Source: <https://www.prnewswire.com/news-releases/the-leapfrog-group-announces-2020-top-hospitals-and-pandemic-heroes-of-the-year-awards-301188032.html>

States With Most Covid-19 Deaths

As of January 18, 2021

1. New York
2. California
3. Texas
4. Florida
5. New Jersey
6. Illinois
7. Pennsylvania
8. Michigan
9. Massachusetts
10. Georgia



Source: <https://www.statista.com/statistics/1103688/coronavirus-covid19-deaths-us-by-state/>

Catching Up With Vic

Looking to the future often comes with a bit of nostalgia. We connected with a few familiar faces from ProAssurance's past to look back on the good old days—and get a look at what they've gotten up to since retirement.

*This month we sat down with **Victor Adamo**, former President and Vice Chairman at ProAssurance. Keep reading to learn about how Vic started his career as an attorney before becoming active with a physicians crisis committee, which was the jump start to his career in professional liability insurance.*

Tell us about what you thought you were going to do while you were in school versus where you ended up with your career.

I went to school in the late 60s and early 70s. I was an undergrad political science major and went to law school, which was the typical track during that time. When I graduated from law school, my goal was to get a clerkship; it's a great next step out of law school. I became a clerk with the Michigan Supreme Court. I made some contacts and was asked to interview with a law firm in Detroit and took a job with them. I became active with the Physicians Crisis Committee – doctors who formed an association to work on medical liability issues. I was the lawyer who did a great deal of corporate work on their behalf. That group ultimately was instrumental in forming the Physicians Insurance Company of Michigan. It was there that I started learning more about insurance and how an insurance company operates. The rest is history.

What attracted you to the professional liability insurance industry?

This industry allowed me to do a good social purpose by representing healthcare professionals to help them do their jobs better. People usually don't intend to go into the insurance industry, but it's a great business once you get into it. The professional liability industry is a good line of work with skilled workers. It's a great profession for young people to think about as they're considering careers. The nature of being in this line of insurance allows you to spend time with customers and employees. If you're a people-person, it's a great business to be in.

What are the important leadership attributes someone should have to be successful in the professional liability insurance industry?

You have to be able to inspire and give a sense of mission and purpose to the people in the organization. You must be able to craft a concise, straight-forward message that doesn't get bogged down with too many details. You should have a lot of energy and drive. You have to trust the people around you – your direct reports – and have a collaborative style.

You always want your company to deliver quality product, which means you should step back occasionally and question what you're doing and if it makes sense. The agents are particularly important because they are the face of the organization. A leader must understand their agents' needs and provide them with the things they need to be successful, and agents must understand their leader to successfully sell the product.

What do you think helped make you a successful executive at ProAssurance?

I tried to keep everything in balance. I understood that there were multiple constituencies to serve: customers (physicians and dentists), the distribution force, employees, and shareholders. My focus was usually on the first three since if we got the business right, we would be profitable and that would benefit the shareholders.

What makes you most proud of your career at ProAssurance?

Both Medical Assurance and ProNational had the same vision before merging to form ProAssurance. Both realized that to be a sustaining insurance company, they needed to move from the small company ranks to become a competitive mid-sized company. When ProNational and Medical Assurance merged in 2001 to form ProAssurance, each company brought strengths to the new organization. In 2011 or 2012, we accomplished our goals – we had a much larger insurance company and footprint, and we had a much stronger balance sheet. Our employees were taken care of – everyone found jobs in their area/field. I'm most proud that we accomplished what we set out to do.

What do you miss most about working at ProAssurance?

I had the good fortune of really enjoying my job. I miss being in the office and interacting with employees. I miss business travel. I miss some of the problem solving that comes

with running a company, but I'm happy that I have more discretionary time now. I'm very grateful to ProAssurance; they treated me well.

What is a typical day like for you?

My goal is to stay busy. My wife and I travelled some pre-COVID; we went to South America a few times (Chile, Patagonia, Galápagos), Iceland, Alaska, and we also went to China. I've been to Africa twice and Honduras on mission-type trips.

I'm on the board of a small medical malpractice company in California. It's nice to be around physician board members who bring so much energy and interest to the claims that we review. I'm also on the board of Bread for the World, which is a Christian-based advocacy organization that's centered around food and nutrition. They work primarily with Congress to maintain and increase U.S. food programs like SNAP. It's a great mind-expanding activity for me, and they're doing great work.

Retirement has given me a lot more time to do things that I always said that I'd do when I had more time, like exercise. And I'm involved in community activities like Boy Scouts, too.

Do you have any words of wisdom for ProAssurance employees?

I know the company is going through a more difficult time now because it's a hard market. You have to continue to be optimistic about the future of the company because it will rebound. Always remember the customers you're serving; it's when you can shine as an employee. I'm confident in the future of ProAssurance – you just have to get through this part of the cycle.



Vic Adamo

Former President and Vice Chairman at ProAssurance

THE HOMEPAGE

If I Run Out of Ale

I'm on the obsessive side of the spectrum when it comes to New Year's resolutioning and covering most facets of my life: professional development, health & fitness, family, hobbies, etc. A favorite personal resolution from 2020 was "listen in random order to all the albums in [Rolling Stone's list of the top 500 albums of all time](#)." The good news is I finished it; on Dec 15th #134, The Notorious B.I.G.'s "Ready to Die" brought me across the finish line. The better news is in September 2020 Rolling Stone redid the entire project from scratch. For 2021 I'm resolved to listen to the newly declared Top 500 list in random order—as I write this, newly #136, Funkadelic's "Maggot Brain" is playing in the background.

While listening to then #219 (now 192), the Beastie Boys' License to Ill, I was reminded of a work related 2020 New Year's resolution. "Misheard lyrics" are an endless source of fun online (just Google it), but most of us have misheard lyrics on our brains and have accepted them as the absolute truth. My high school friends and I were convinced the line after "If I run out of ale" in the lyrics to "Hold It Now, Hit" were "it's time to Bud-Wise!" It's actually "Thunderbird wine!"

This misheard-and-believed-to-be-correct phenomenon is also true of common phrases and sayings including those used in business. The Old School, a long time *ProVisions* sales advice columnist, would describe these as "terrible trifles", issues that are minor and usually pass unnoticed, but have the potential to really get under the skin of someone you are hoping to persuade. I overheard a flurry of these verbal terrible trifles in late 2019 and resolved to spend

one year paying attention and taking notes.

The results one year later are mixed. On the positive side, there aren't very many examples in total. However, several are rampant. You know you have a good friend when they notice you have some spinach stuck in your teeth a discretely alert you to the problem. Maybe you are using one of these terrible trifles in meetings and nows our chance to clean it up.

Here are seven that I heard the most often at work. Take the quiz:

1. **A (mute/moot) _____ point is one that's irrelevant to the current discussion.**
2. **An (excerpt/exert) _____ is a short passage or word phrase taken from a longer work.**
3. **Things (jive/jibe) _____ when they are in agreement or harmony with each other**
4. **When something unsolicited or unexpected is offered or needs to be dealt with it came in "over the (transit/transom) _____."**
5. **To become very interested in or attached to something is to (glom/glob) _____ onto it.**
6. **One would "Throw spaghetti against the wall to see what (sticks/hits) _____."**
7. **If this is your last opportunity to speak, you should speak now or forever hold your (peace/piece) _____.**

I hope you score a perfect 7, but if not, congratulations on the opportunity to fix it going forward. If you have one to add to the list or a funny misheard lyric to confess, let us know by emailing TreatedFairly@ProAssurance.com.

Answers are on the right.

Terrible Trifles



Answer Key

1. **Moot**—"When a point is moot, it's too trivial to think about. If your basketball team loses by 40 points, the bad call by the official in the first quarter is moot: it isn't important."
2. **Excerpt**—"Instead of sharing all 147 lines of your favorite poem in class, you might want to read an excerpt, that is, just a part of the verses, so no one dozes off."
3. **Jibe**—"To jibe with someone is to agree with them. jibe can also mean "be compatible with or similar to. If two people jibe, they get along quite well."
4. **Transom**—"A transom is a lintel or crosspiece over a door. Refers to the idea of a writer tossing a manuscript through the open window over the door of the publisher's office. Alternatively, a "transom" is the nautical term for the back of a small boat. Something which "came in over the transom" would have suddenly (and presumably, surprisingly) entered through the "back door" of the craft, metaphorically."
5. **Glom**—"To figuratively grab or seize something is to glom onto it. A local newspaper might simply glom onto whatever stories the larger national papers are covering."
6. **Sticks**—"If you make enough attempts or guesses, some of them will be correct or useful. Refers to the practice of throwing spaghetti at a wall to see if it's done cooking."
7. **Peace**—"Speak now or forever hold your peace is an admonition to immediately share information that may not be known by others, or else keep this information to yourself for eternity."



Steve Dapkus, Vice President, Marketing

Please note: The Homepage is not an advice column. The purpose of The Homepage is marketing, communications, and business operations insights in the digital age.

MARKET DYNAMICS

Industry Articles

We have curated a selection of articles which highlight current trends and major events impacting the healthcare professional liability market.

Medical professional liability “nuclear” jury verdicts on the rise—The frequency of medical professional liability claims has remained stable, but severity is climbing annually, causing insurers to reassess their portfolios and tighten underwriting guidelines. (Insurance Business Magazine)

COVID-19 disrupting U.S. professional liability market: AM Best—Best reports the pandemic increased pressure on D&O renewal pricing and hardened rates. (Reinsurance News)

Thousands of doctors’ offices buckle under the financial stress of COVID—Recent research indicates that approximately eight percent of all physician practices nationally have closed due to the stress of the pandemic. (Kaiser Family Foundation)

Commercial insurance rate hikes accelerate—U.S. commercial insurance rates increased 7.1% in the fourth quarter of 2020, continuing an upward trend that started in 2017. (Business Insurance)

Top patient safety issues for 2021—The Becker’s Clinical Leadership & Infection Control editorial team chose the top issues they feel healthcare leaders should prioritize in 2021. (Becker’s Hospital Review)

2020 Burnout Survey results: Physicians facing an unprecedented crisis—Over two thirds of physicians said they felt burned out in 2020. (Medical Economics)

Reinsurance rates up sharply at January renewals—The United States saw the highest reinsurance rate increases at January 1—alongside tightened policy wording with pandemic exclusions and cyber coverage drawing scrutiny. (Business Insurance)

COVID-19 supercharged digital health funding in 2020 to reach record levels: report—Venture capital funding, including private equity and corporate venture capital, came to \$14.8 billion in 637 deals in 2020, up 66% compared to \$8.9 billion in 615 deals in 2019. (Fierce Healthcare)

Professional liability market is “a game of whack-a-mole now”—Panelists at the 2020 PLUS Virtual Conference discussed the current professional lines reinsurance landscape. (Business Insurance Magazine)

Study: Hospitals at or near full COVID-19 ICU capacity increase by 90 percent over past few months—Hospitals have faced massive demand for staff and intensive care unit capacity in recent months, a new study found. (Fierce Healthcare)

RISK MANAGEMENT SPOTLIGHT

New Risk Management Baseline Review

A new resource is being rolled out for the benefit of ProAssurance’s medical practice insureds. The Risk Management Baseline Review is a self-assessment tool available to aid in reducing medical practice professional liability.

What is this new resource, the Risk Management Baseline Review?

The Baseline Review is a foundational practice assessment, deployed through Survey Monkey, for the purpose of assessing an organization’s understanding of key processes.

How is this Baseline Review accomplished?

A brief questionnaire is completed by practice staff and physicians using a practice-specific survey link sent directly to the medical practice administrator, or other designated individual. This link is then distributed by the practice administrator to staff and physicians. The survey participants are identified via a numerical code to help maintain anonymity.

How is the Baseline Review valuable to the organization?

This Baseline Review offers staff the opportunity to answer the questions anonymously. Staff can answer candidly and the resulting summary report will offer the practice leaders a comprehensive view of staff understanding of key processes designed to reduce patient harm. Seeing this information may help identify gaps in staff education or result in process changes.

What is the deliverable?

A summary report, in a graphical format, includes the practice’s responses to each question. The practice information is also benchmarked to other practice responses. In addition, each question offers an associated risk reduction strategy and additional resources, such as a brief What’s the Risk video, or a sample form.

An experienced Risk Advisor will review and discuss the results with the practice. Perhaps the unique circumstances require a tailored approach to risk reduction.

And a bonus is having a Risk Advisor to collaborate with when the practice’s employees have questions and want risk reduction guidance.

How do your clients take advantage of this valuable resource?

Medical practice insureds may contact a ProAssurance Risk Resource Advisor at **844-223-9648** or RiskAdvisor@ProAssurance.com to take advantage of the Risk Management Baseline Review.



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visit ProAssurance.com/ProVisions.

How will COVID-19 vaccines affect how we work through the pandemic?

Our February issue of *ProVisions* will share insights and news from the healthcare industry that we think you'll find useful.

Visit ProAssurance.com/COVID-19-Vaccination for updates on ProAssurance's response to the vaccine rollout.

