

REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 6 - A-07

Subject: Defining “Loss of Practice” in Catastrophic Events

Presented by: William A. Dolan, MD, Chair

Referred to: Reference Committee G
(Steve Kanig, MD, Chair)

1 At the 2006 Annual Meeting, the House of Delegates adopted Resolution 731, which asks our
2 American Medical Association (AMA) to study how the insurance industry defines loss of practice
3 in situations resulting from major catastrophes. The Board of Trustees referred this issue to the
4 Council on Medical Service for a report back to the House at the 2007 Annual meeting.

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6 The Council’s study found that the term “loss of practice” does not appear to be an industry-wide
7 term. Rather, the insurance industry has developed various levels of “business interruption
8 insurance” products that may serve to safeguard physician practices from a range of perils.
9 Accordingly, this report describes the types of insurance products that might be available to help
10 physicians save their practices in the event of a natural disaster or catastrophe, encourages the
11 AMA to continue educating physicians and promoting products that better cover physicians in the
12 case of the loss of physician practices and practice income following catastrophic events, and
13 encourages state medical associations and national specialty societies to develop products to assist
14 members with disaster recovery and to educate its members on the availability of disaster recovery
15 solutions.

16 17 LOSS OF PRACTICE

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19 Since the 2005 Hurricanes Katrina and Rita, several AMA member physicians have been featured
20 in the news media highlighting the challenges of restoring their practices, especially when patients
21 have evacuated and not returned. Even with insurance policies to help mitigate brick and mortar
22 losses, there are several examples that illustrate how a practice could be devastated beyond the
23 physical structure. For instance, an Alternate Delegate for the Louisiana State Medical Society and
24 pediatrician lost the majority of his patients after the hurricanes. The declaration page of his
25 property and business insurance policies listed business interruption as actual economic loss for
26 one year, but the insurer reimbursed the physician for just the three weeks of forced evacuation.
27 The insurer justified the payment based on the premise that people could have returned to the city
28 once the mandatory evacuation was lifted, regardless of the lack of housing, and sewage and water
29 services. As of January 2007, less than 20% of the population had returned to the neighborhood in
30 which this physician practices.

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32 Numerous reports have shown that up to 40% of small businesses do not reopen after a major
33 disaster, such as a flood, tornado or earthquake. Business interruption insurance products may be
34 specialized to cover the cost of restoring a physician practice; in addition, such products may
35 provide a limited revenue stream while the business is recovering from property loss. However,

1 business interruption insurance may be riddled with exclusions that narrow its usefulness. For
2 example, in the circumstance that fewer people live in a disaster-affected geographic area, business
3 interruption insurance would not cover the loss.

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5 INSURANCE PRODUCTS

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7 Traditional property insurance covers the existing office and its contents. After major disasters,
8 loss of income rather than the inability to repair the office and replace the contents can cause
9 businesses to fail. Therefore, compensating for the net loss of income during the restoration of the
10 practice, both in terms of property and income, may require insurance coverage beyond traditional
11 property insurance. Business interruption insurance functions to help protect a lost earnings
12 stream, with earnings defined as revenues minus expenses.

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14 “Business interruption” insurance is intended to compensate the insured for income lost during the
15 period of restoration or the time necessary to repair or restore the physical damage to the covered
16 property. Insurance payments for claims of lost income are considered taxable income.
17 Business interruption insurance, which reimburses for the net income lost during the time that the
18 business is forced to be closed, applies only to causes of damage covered under the policy owner’s
19 business property insurance policy. For example, if the business is closed due to earthquake
20 damage, the policy owner must have earthquake coverage to make a claim under a business
21 interruption policy.

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23 Following a covered event, most policies have a waiting period, typically 48 hours before coverage
24 starts. Once the waiting period expires, the scope of many business interruption insurance products
25 is usually limited to 12 months, but there are coverage riders that can extend business interruption
26 insurance beyond a year, for additional charges. For example, “extended business interruption”
27 insurance can bridge income lost after the property is repaired but before the income returns to its
28 pre-loss level. While 85% of practices do carry business interruption insurance, they often do not
29 carry enough of it. According to the Insurance Information Institute, most businesses only carry
30 enough business interruption insurance for one to four weeks of disruption, whereas for an event
31 like Hurricane Katrina, 18 to 24 months would be more appropriate.

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33 “Extra expense” insurance is a rider that can be added to business interruption insurance that is
34 designed to pay for necessary expenses incurred during the restoration of property and that would
35 not have been incurred had there been no physical loss or damage to the property. For example
36 extra expenses may include coverage for rent of substitute space, replacement or rental of
37 computers and other business equipment, installation of telephone lines, and any other equipment
38 needed to continue to operate a business at its original location or at another location while the
39 original location is repaired. This coverage may be essential for some practices to resume business
40 operations.

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42 All of the coverage options that can be added to business interruption insurance are contingent
43 upon coverage for catastrophic events (e.g., wind, earthquake, and fire). Business interruption
44 insurance can be sold along with property insurance coverage and is priced approximately the same
45 as property insurance coverage. Important considerations that factor into the price of a policy
46 include weather patterns, safety features of the building in which a practice is located, expected
47 length of time and cost to return a business to operation, time and expense of notifying patients of
48 the new practice, and physician’s income. The American Bar Association (ABA) web site has

1 compiled a helpful description of the types of available business interruption products and a
2 checklist of possible coverage adjustments and mitigation and recovery factors. The checklist is
3 available at: <http://www.abanet.org/litigation/committee/insurance/businesschecklist.pdf>

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5 AMA POLICY

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7 AMA Policy D-130.972[3] supports having the AMA work with appropriate state and local
8 organizations to develop templates for private practice/office continuity plans in CD-ROM or web-
9 based format that can be stored in state medical association offices on a server in the event of a
10 disaster. In addition, AMA Policy D-130.970 supports the creation or support of federal legislation
11 and/or regulations which would provide bridge financial support to physicians following officially
12 declared disasters to ensure an adequate supply of physicians to treat the population of the
13 recovering areas.

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15 AMA ADVOCACY

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17 The AMA Insurance Agency has had a contractual relationship with Insurance Noodle, Inc. since
18 April 2002 to offer a Business Owner's Policy (BOP) to eligible physicians. Through this
19 relationship, practice owners may purchase insurance that covers major property and liability
20 exposures as well as a loss of income if their practice cannot operate for a period of time in the
21 event of an insured claim. A BOP with business interruption insurance is priced based on property
22 values, square footage of the office, location, type of building, and other factors. As of January
23 2006, an average physician office policy premium was \$9,000 yearly, which included BOP
24 (property, business interruption and general liability), workers' compensation, commercial auto,
25 and umbrella coverage. The minimum BOP premiums for the smallest offices may be as low as
26 \$500. These prices can vary widely, as they are contingent on the individual circumstances and
27 breadth of coverage.

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29 For example, if a practice's roof is damaged during a thunderstorm and water damage to the office
30 causes the business to close for two months, a BOP would provide coverage in several ways. The
31 policy would cover the cost of repairing the roof, cleaning up water damage and repairing or
32 replacing the furniture, computers and supplies. A BOP also would cover net loss of revenue and
33 extra expenses for the two months the business is closed. Also, if a patient was in the office during
34 the storm and was injured by falling debris, a BOP would cover the patient's medical bills. A BOP
35 does not typically cover damage or loss due to earthquakes or floods, unless coverage is
36 specifically added. Despite the AMA Insurance Agency's promotional activities announcing the
37 BOP arrangement when it was launched in 2002, interest in the program has been very low.
38 Clearly, the devastation in the wake of Hurricanes Katrina and Rita has increased the visibility of,
39 and perhaps the demand for, this type of insurance coverage.

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41 In addition to an appropriate level of insurance coverage, it is also important to have a
42 comprehensive disaster recovery plan in place. AMA Policies H-315.973 and H-315.979 promote
43 securing the information contained in medical records and developing templates for private
44 practice/office continuity plans. The AMA Insurance Agency is exploring ways to mitigate
45 business interruption risk by negotiating an AMA member rate with a service that provides disaster
46 recovery solutions. However, consideration of this initiative is in the very early investigative stage.

1 DISCUSSION

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3 Catastrophic events such as the terrorist attacks on September 11, 2001, Hurricanes Katrina and
4 Rita, earthquakes, or even massive jobs losses related to changes in a particular industry, may
5 affect a physician's ability to offer continuous care to patients. While the term "loss of practice"
6 does not appear to be defined by the insurance industry, the Council recognizes that particular
7 circumstances produce a range of challenges to maintaining a practice when the patient population
8 relocates following a catastrophic event. There are very few safeguards that the insurance industry
9 can offer business owners to address this concern.

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11 Accordingly, the Council believes that the AMA should continue its advocacy on behalf of
12 physician members whose practices are destroyed by identifying insurance products that are suited
13 to the needs of physician practices. The AMA Insurance Agency's investigation of additional
14 products to help physicians is a promising activity that could provide coverage options that are
15 meaningful for physician practices. In addition, the Council recognizes the merit of comprehensive
16 planning and preparation for disaster recovery specific to the locale. Therefore, the Council
17 encourages state medical associations and national medical specialty societies to assist in
18 identifying educational and insurance products that address regional disaster recovery concerns, or
19 those concerns specific to specialty medical practices.

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21 RECOMMENDATIONS

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23 The Council on Medical Service recommends that the following be adopted and the remainder of
24 the report be filed.

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26 1. That our American Medical Association continue to seek and promote products that cover
27 physicians in the case of the loss of physician practices and practice income following
28 catastrophic events and educate physicians on disaster recovery solutions. (Directive to
29 Take Action)
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31 2. That our AMA encourage state medical associations and national medical specialty
32 societies to develop products and educational services to assist members with disaster
33 recovery solutions. (Directive to Take Action)

References for this report are available from the AMA Division of Socioeconomic Policy
Development.

Fiscal Note: Encourage state medical associations and national medical specialty societies to
develop products and educational services to assist members with disaster recovery solutions at an
estimated total cost of less than \$500.