Risk Retention Groups: Buyer beware of the Risks

When considering the professional liability coverage offered by an RRG, dentists should be aware of the risks involved and should understand how the type of coverage presented relates to the amount of premium to be paid. We suggest dentists carefully evaluate their current coverage and premiums and compare them with those of an RRG in order to gain a full understanding of the advantages of your program.

To help you understand the risks associated with receiving coverage from an RRG, let's go over some basic considerations:

RRGs are not eligible for protection by the NYS Property/Casualty Insurance Security Fund in the event of their insolvency. If RRGs are not licensed by New York State, their policyholders are not protected by the state's $1 million per claim guaranty fund in the event the RRG becomes insolvent. The guaranty fund, which acts as a safety net, protects our insureds from the risks covered by their policies.

Dentists cannot get free excess coverage if they become insured by an RRG. Dentists who purchase primary coverage from an RRG not licensed by New York State do not have access to the $1 million of excess coverage provided by the state. Excess coverage may be provided at no cost to dentists who are insured by a New York State-licensed insurer and meet all other requirements of the excess program.

The occurrence form of coverage is typically not available with an RRG. In fact, RRG premium quotes may appear to be a fraction of current insurance company premiums due to the fact that RRGs are not comparing "apples to apples." They typically propose to move the insured from the occurrence form of coverage to either a first year claims made or claims paid (sometimes referred to as "paid claims") policy. Because claims made and claims paid policies cover a subset of the claims covered by an occurrence policy, each costs less than the occurrence form for the first few years. Both the claims made and claims paid form only give the illusion of cost savings, because both forms would require the purchase of a "Tail" to protect for any subsequently reported claims should the policy be cancelled.

RRGs not licensed by New York State are not regulated by New York State. The policy forms and premium rates of an RRG not licensed by New York State are not subject to New York Insurance Law. Therefore, unlike licensed New York State carriers, unlicensed RRGs may change their policy terms or premium rates without first filing and receiving approval from the New York State Department of Financial Services. Furthermore, policy and rate changes may be implemented without meeting the policyholder notice requirements found in New York Insurance Law.

RRG insurance may require additional fees. By law, RRGs must be owned by their insureds and most require insureds to make a capital contribution for several years, in addition to their annual insurance premiums. This money is at risk and its return is not guaranteed.

Insuring with an RRG may jeopardize a dentist's privileges at affiliated hospitals. Since insurance purchased from an RRG that is not licensed by New York State is not regulated by the state, it may differ from what is customarily offered in New York and may well be of significant concern to hospitals granting staff privileges, particularly if the hospital believes it increases its exposure by accepting RRG coverage. It also depends upon the medical staff by-laws and the hospital's credentialing requirements.

Clearly, there are a number of issues and concerns present with the RRG form of insurance. Therefore, it is very important for dentists to thoroughly analyze all aspects of this type of insurance before deciding to make any changes to their current program. In many cases, what appears to be a more cost effective option could, ultimately, lead to even higher costs and greater risks to the dentist.